

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

KORIE L WESTON
Claimant

APPEAL NO. 14A-UI-03400-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 03/09/14
Claimant: Appellant (1)

871 IAC 24.2(1)(a) & (h)(1) & (2) – Backdated Claim

STATEMENT OF THE CASE:

Korie Weston filed a timely appeal from the March 24, 2014, reference 02, decision that denied her request to backdate her claim to a date prior to March 9, 2014. After due notice was issued, a hearing was held on April 22, 2014. Ms. Weston participated.

ISSUE:

Whether Ms. Weston has presented sufficient grounds to justify or excuse the delay in filing for benefits through Iowa Workforce Development and whether good cause exists to backdate the claim for benefits.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Korie Weston commenced her most recent period of employment with HuHot Mongolian Grill in 2011 and continues in that part-time employment at this time. Ms. Weston's usual work days are Tuesday through Saturday. On March 4 or 5, 2014, the restaurant developed a roof leak. Ms. Weston was present when the roof leak developed and was present when the restaurant shut down. A supervisor advised Ms. Weston that the supervisor would get back to Ms. Weston about when the restaurant would be able to reopen. The management posted daily updates on its Facebook page. The restaurant ended up being closed for the period of March 5-14, 2014 and reopened on Saturday, March 15, 2014. On or about Sunday, March 9, 2014, a supervisor recommended that employees file a claim for unemployment insurance benefits. On March 11, 2014, Ms. Weston made an online application for benefits. Workforce Development deemed the claim effective March 9, 2014, the Sunday that started the week during which Ms. Weston applied for benefits.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the evidence indicates sufficient grounds to justify or excuse the delay in filing for benefits through Iowa Workforce Development and whether good cause exists to backdate the claim for benefits.

871 IAC 24.2(1)h(1), (2) and (3) provide:

Procedures for workers desiring to file a claim for benefits for unemployment insurance.

(1) Section 96.6 of the employment security law of Iowa states that claims for benefits shall be made in accordance with such rules as the department prescribes. The department of workforce development accordingly prescribes:

h. Effective starting date for the benefit year.

(1) Filing for benefits shall be effective as of Sunday of the current calendar week in which, subsequent to the individual's separation from work, an individual reports in person at a workforce development center and registers for work in accordance with paragraph "a" of this rule.

(2) The claim may be backdated prior to the first day of the calendar week in which the claimant does report and file a claim for the following reasons:

Backdated prior to the week in which the individual reported if the individual presents to the department sufficient grounds to justify or excuse the delay;

There is scheduled filing in the following week because of a mass layoff;

The failure of the department to recognize the expiration of the claimant's previous benefit year;

The individual is given incorrect advice by a workforce development employee;

The claimant filed an interstate claim against another state which has been determined as ineligible;

Failure on the part of the employer to comply with the provisions of the law or of these rules;

Coercion or intimidation exercised by the employer to prevent the prompt filing of such claim;

Failure of the department to discharge its responsibilities promptly in connection with such claim, the department shall extend the period during which such claim may be filed to a date which shall be not less than one week after the individual has received appropriate notice of potential rights to benefits, provided, that no such claim may be filed after the 13 weeks subsequent to the end of the benefit year during which the week of unemployment occurred. In the event continuous jurisdiction is exercised under the provisions of the law, the department may, in its discretion, extend the period during which claims, with respect to week of unemployment affected by such redetermination, may be filed.

(3) When the benefit year expires on any day but Saturday, the effective date of the new claim is the Sunday of the current week in which the claim is filed even though it may overlap into the old benefit year up to six days. However, backdating shall not be allowed at the change of the calendar quarter if the backdating would cause an overlap of the same quarter in two base periods. When the overlap situation occurs, the effective date of the new claim may be postdated up to six days. If the claimant has benefits remaining on the old claim, the claimant may be eligible for benefits for that period by extending the old benefit year up to six days.

There was nothing to prevent Ms. Weston from establishing a claim for unemployment benefits based on a theory of partial unemployment or temporary unemployment from the time the restaurant closed. The employer did not coerce or intimidate Ms. Weston into delaying her application for benefits. Workforce Development provided no erroneous information and took action to inhibit or delay Ms. Weston's application for benefits. Ms. Weston apparently did not think to apply for benefits until the employer suggested on or about March 9, 2014 that she do so. Ms. Weston made her application on March 11, 2014 and Workforce Development appropriately deemed the claim to be effective March 9, 2014.

DECISION:

The Claims Deputy's March 24, 2014, reference 02, decision is affirmed. The claimant has not presented sufficient grounds to justify or excuse the delay in filing for benefits. Good cause does not exist to backdate the claim for benefits. The claimant's request to backdate the claim to a date prior to March 9, 2014 is denied.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/pjs