

**IOWA WORKFORCE DEVELOPMENT  
Unemployment Insurance Appeals Section  
1000 East Grand—Des Moines, Iowa 50319  
DECISION OF THE ADMINISTRATIVE LAW JUDGE  
68-0157 (7-97) – 3091078 - EI**

**RODNEY L SCHLEETER  
1780 W FOREVERGREEN  
NORTH LIBERTY IA 52317**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**Appeal Number: 05A-UI-03057-SWT  
OC: 07/04/04 R: 03  
Claimant: Appellant (2)**

**This Decision Shall Become Final**, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4<sup>th</sup> Floor—Lucas Building, Des Moines, Iowa 50319.**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

871 IAC 24.2(1)h - Backdating

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated March 15, 2005, reference 02, that denied the claimant's request to backdate his claim. A telephone hearing was held on April 20, 2005. Proper notice of the hearing was given to the claimant. The claimant participated in the hearing.

FINDINGS OF FACT:

The claimant filed a new claim for unemployment insurance benefits with an effective date of July 4, 2004, after a short-term layoff from work at NCS-Pearson. The claimant returned to work for NCS-Pearson until his employment ended on February 4, 2005.

The claimant filed an additional claim for unemployment insurance benefits during the week of March 6, 2005. The claimant requested that his claim be backdated to be effective February 6,

2005. The employer prevented the claimant from filing his claim earlier because he was informed that he could not file for unemployment insurance benefits until after his vacation and 401(k) benefits were released, which was a misrepresentation.

During the time period from February 6 to March 6, 2005, the claimant was able to, available for, and actively seeking work.

#### REASONING AND CONCLUSIONS OF LAW:

The issue in this case is on what date should the claim for benefits be made effective.

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;

The reason the claimant failed to file an earlier unemployment insurance claim was because he was prevented by his employer from filing an earlier claim due to misrepresentation. The

claimant has shown that his failure to file an earlier claim was due to the employer's preventing the claimant from promptly filing a claim and has established sufficient grounds to justify or excuse the delay in filing his claim. The claim for unemployment insurance benefits is effective February 6, 2005. The claimant is entitled to receive unemployment insurance benefits effective February 6, 2005, and retroactive benefits should be paid to the claimant.

DECISION:

The unemployment insurance decision dated March 15, 2005, reference 02, is reversed. The claimant's request to backdate the claim is granted. The claimant is entitled to receive unemployment insurance benefits effective February 6, 2005, and retroactive benefits should be paid to the claimant.

saw/pjs