

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ARLENE F VAN SCHEPEN
Claimant

APPEAL NO. 16A-UI-02664-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 01/25/15
Claimant: Appellant (2)

Iowa Admin. Code r. 871-24.2(1)a & h(1) & (2) – Backdating

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated February 17, 2016, reference 01, which denied claimant's request to backdate a claim. After due notice, a telephone conference hearing was scheduled for and held on March 28, 2016. Claimant participated personally. Claimant's Exhibit A was admitted into evidence

ISSUE:

The issue is whether the claim should be backdated.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant has periods of time where her hours of work drop off dramatically. During these times, claimant has filed for and received partial benefits. On or around January 22, 2016 claimant filed an initial claim intended to reopen her claim from January 25, 2015 which she had not filed on in many months. Claimant did not file a weekly claim for benefits that week as she hadn't received her card approving her for filing and thought the process was just going slowly. Claimant filed a claim for benefits with an effective date of February 7, 2016. Claimant asserts that the claim should be backdated because she believed she had filed an initial claim on January 22, 2016, and the reasons that she had not filed weekly claims after that was twofold; she believed that IWD was just behaving slowly and also because she never received the green card accepting the claim in the mail.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant's request to backdate her claim is allowed.

Iowa Admin. Code r. 871-24.2(1)h(1), (2) and (3) provide:

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

(1) § 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.

Whereas claimant properly restarted her claim, or at least believed that she had by filing or attempting to file a new initial claim on January 22, 2016, that action is in accordance with prescribed rules for filing following a break in reporting status. Not receiving the proper paperwork to find that a claim has been accepted is considered a good-cause reason for having failed to file a claim during the first week of reduced employment. Backdating is allowed.

DECISION:

The decision of the representative dated February 17, 2016, reference 01, is reversed. Claimant's request to backdate the claim is granted.

Blair A. Bennett
Administrative Law Judge

Decision Dated and Mailed

bab/css