

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JASON R RICHMOND
Claimant

APPEAL NO. 14A-UI-00205-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 12/23/12
Claimant: Appellant (1)**

871 IAC 24.2(1)a & h – Claim Backdating

STATEMENT OF THE CASE:

Claimant filed a timely appeal from the December 27, 2013, reference 01, decision that denied the request to backdate the claim for benefits prior to December 1, 2013. After due notice was issued, a hearing was held by telephone conference call on January 30, 2014. The claimant participated.

ISSUE:

The issue is whether the claimant can backdate the claim prior to December 1, 2013.

FINDINGS OF FACT:

The administrative law judge, having reviewed all of the evidence in the record, finds that: The claimant failed to file a claim for unemployment insurance benefits for the week of November 24, 2013 through November 30, 2013, although the claimant had been temporarily laid off due to lack of work during that one-week period of time. In the past Mr. Richmond had utilized telephone reporting to file weekly continued claims or to re-open his claim, but most recently the claimant had been instructed to re-open or file his continued claim on line and had done so.

Mr. Richmond planned to re-open his claim for the week of November 24 through November 30, 2013 on line via the internet using a local library facility. Due to transportation difficulties on Sunday, November 30, 2013, the claimant failed to re-open his claim for the preceding week on that day. When Mr. Richmond attempted to backdate his claim the following week his request was denied.

It is the claimant's position that his ability to file a timely claim had been negatively impacted by the closing of some area Claims Centers and because of the requirement that he use the on-line method for opening or re-opening his weekly claims for benefits.

REASONING AND CONCLUSIONS OF LAW:

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.

Although sympathetic to Mr. Richmond's situation, lack of transportation is not considered to be a good-cause reason for having failed to file a claim during the first week of unemployment. Mr. Richmond was aware that he was to re-open his claim for unemployment insurance benefits on line and had done so in the past. Mr. Richmond did not file a timely claim for benefits for the week of November 24, 2013 through November 30, 2013 within the timeframe prescribed by the Employment Security Law. Although the claimant had sufficient time to re-open his claim and computers were available at the local library for this purpose, Mr. Richmond failed to file a timely claim for benefits that week because his vehicle did not start. Remaining time was available to re-open his claim, he did not do so until the following week. As the claimant has not shown a good-cause reason for having failed to file his claim during the first week of his unemployment, backdating is denied.

DECISION:

The December 27, 2013, reference 01, decision is affirmed. The claimant's request to backdate his claim prior to December 1, 2013, is denied.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

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