

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

LORETO J GONZALEZ HERRERA
Claimant

APPEAL 17A-UI-11464-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

**OC: 09/24/17
Claimant: Appellant (1)**

871 IAC 24.2(1)h(1) & (2) – Backdating

STATEMENT OF THE CASE:

Claimant filed a timely appeal from the November 3, 2017, (reference 03) decision that denied his request to backdate the claim for benefits prior to September 24, 2017. After due notice was issued, a hearing was held by telephone conference call on November 28, 2017. Claimant participated.

ISSUE:

May the claim be backdated prior to September 24, 2017?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant filed a claim for benefits with an effective date of September 24, 2017 and desires to backdate the claim date to August 27, 2017. The claimant was separated from his employment on September 1, 2017. He did not file his claim for benefits until sometime during the week beginning September 24 as his union told him they would get him his job back. The claimant chose to delay filing his claim as he thought he would get his job back soon. As of the date of the hearing he has not been rehired by his last employer.

The department has not failed to recognize the expiration of the claimant's previous benefit year and there is not an interstate claim against another state which has been determined as ineligible.

REASONING AND CONCLUSIONS OF LAW:

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

Iowa Code section 96.6(1) provides:

1. Filing. Claims for benefits shall be made in accordance with such regulations as the department may prescribe.

Iowa Admin. Code r. 871-24.2(1)h(1) and (2) 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 files a claim for benefits.

(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:

1. The failure of the department to recognize the expiration of the claimant's previous benefit year;
2. The claimant filed an interstate claim against another state which has been determined as ineligible.

There are only two reasons that a claim may be backdated. Neither of those reasons applies in this case. Accordingly, the backdating request must be denied.

DECISION:

The November 3, 2017, (reference 03) unemployment insurance decision is affirmed. The claimant's request to backdate the claim is denied.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/rvs