

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SCOTT DINGER
Claimant

APPEAL NO: 14A-UI-05496-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 05/04/14
Claimant: Appellant (2)

871 IAC 24.2(1) A&H (1)&(2) – Backdating Claim

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the May 15, 2014, reference 01, decision that denied his request to backdate his claim. After due notice was issued, a hearing was scheduled held by telephone conference call before Administrative Law Judge Julie Elder on June 18, 2014. The claimant is working and was unable to participate in the hearing and sent a written statement in lieu of participation.

ISSUE:

The issue is whether the claimant's unemployment insurance benefits claim can be backdated.

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 May 4, 2014. The claimant called May 4, 2014, to reactivate his claim as he is a construction worker and has filed multiple claims in the past. He had been temporarily laid off from his job and had been told in the past it usually took a few days for the Department to fully process a claim and then the claimant should file his claim at that time. The claimant called in two days later to file his claim and the automated machine told him everything was up to date and would not allow him to proceed with the process of filing his claim. He then called the Department and spoke to an employee who told him his file was not only dormant, which would only require the few steps the claimant had already gone through to reactivate his claim, but also that his file expired April 6, 2014. The Departmental employee told the claimant he should have received notice that his file would expire, rather than simply going dormant, because once the claim has expired additional steps would be required of the claimant before filing any future claims. He told the Department he had not received any notice regarding the expiration of his file, and the Departmental employee was able to check the system and verify that no notification was sent to the claimant about the expiration of his claim. She told the claimant to file a request to backdate his claim, which he did with the employee over the phone.

REASONING AND CONCLUSIONS OF LAW:

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

The failure of the Department to recognize the expiration of the claimant's previous benefit year is considered a good cause reason for having failed to file a claim during the first week of unemployment. Therefore, backdating is allowed.

DECISION:

The May 15, 2014, reference 01, decision is reversed. The claimant's request to backdate the claim is allowed.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/pjs