

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**SHANE D DILLMAN**  
Claimant

**APPEAL NO. 09A-UI-01778-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 01/18/09 R: 02**  
**Claimant: Appellant (1)**

871 IAC 24.2(1)(a) & (h)(1) & (2) – Backdated Claim

**STATEMENT OF THE CASE:**

Shane Dillman filed a timely appeal from the January 28, 2009, reference 01, decision that denied his request to backdate his claim to a date prior to January 18, 2009. After due notice was issued, a hearing was held on February 25, 2009. Mr. Dillman participated and presented additional testimony through Jack Cooper, Chief Financial Officer with C.A.C., Inc. The administrative law judge took official notice of the January 22, 2009, Statement of Fact (Form 60-0140) and the Database Readout (DBRO) contained in the Agency's administrative file. Exhibit A was received into evidence.

**ISSUE:**

Whether Shan Dillman has presented sufficient grounds to justify or excuse the delay in filing for benefits through Iowa Workforce Development and whether good cause exists to backdate the claim for benefits.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Shane Dillman is currently on a temporary layoff from his full-time employment with C.A.C., Inc. Mr. Dillman last performed work for the employer on January 9, 2009. The employer performs work outdoors and the work is contingent upon favorable weather. During the week of January 11-17, 2009, the employer expected there would be work for Mr. Dillman, weather permitting. The employer's practice was to have employees work on Saturday through Sunday if weather conditions did not allow work to be performed earlier in the week. Mr. Dillman was available to perform work for the employer throughout the week that ended January 17, 2009. Mr. Dillman ended up not performing any work for the employer during the week that ended January 17, 2009.

On Tuesday, January 20, 2009, Mr. Dillman used his mother's computer to apply for unemployment insurance benefits based on the layoff from C.A.C., Inc. Mr. Dillman's claim was deemed effective January 18, 2008, the Sunday of the week in which he applied for unemployment insurance benefits.

On Thursday, January 22, 2009, Mr. Dillman went to his local Workforce Development Center and applied to have the effective date of his claim for benefits backdated to January 11, 2009 for the reasons set forth above.

### **REASONING AND CONCLUSIONS OF LAW:**

The question is whether the evidence indicates sufficient grounds to justify or excuse the delay in filing for benefits through Iowa Workforce Development and whether good cause exists to backdate the claim for benefits.

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.

The evidence indicates that Mr. Dillman had reason and reasonable opportunity to file a claim for unemployment insurance benefits during the week of January 11-17, 2009. Mr. Dillman had not performed any work for the employer since Friday, January 9. Mr. Dillman knew there would be not work during the week of January 11-17 unless the weather permitted. Mr. Dillman had until January 17, 2009 to file a claim for benefits that would have been deemed effective Sunday, January 11, 2009. Mr. Dillman was in contact with the employer during the week and knew on or before Saturday, January 17 that he had not performed work for the employer that week. The evidence indicates that Mr. Dillman had access to his mother's computer. Mr. Dillman would have had access to computers and staff located at his local Workforce Development Center during Monday through Friday of the week in question. The employer had not done anything to dissuade Mr. Dillman from filing a claim for benefits or delay filing the claim. Workforce Development had not done anything to contribute to the delay in filing for benefits. The administrative law judge concludes good cause does not exist to backdate the claim and that Mr. Green had not presented sufficient grounds to justify or excuse delay in filing for benefits.

**DECISION:**

The Agency representative's January 28, 2009, reference 01, decision is affirmed. The claimant has not presented sufficient grounds to justify or excuse the delay in filing for benefits. Good cause does not exist to backdate the claim for benefits. The claimant's request to backdate the claim is denied.

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James E. Timberland  
Administrative Law Judge

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Decision Dated and Mailed

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