

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

COREY BERGERON
Claimant

APPEAL NO: 10A-UI-02359-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 02/15/09

Claimant: Appellant (2)

871 IAC 24.2(1)g – Backdating of continued claims

STATEMENT OF THE CASE:

Corey Bergeron (claimant) appealed a representative's February 4, 2010 decision (reference 01) that denied the claimant's request to backdate weekly claims for the weeks ending January 9, January 16, and January 23, 2010. After a hearing notice was mailed to the claimant's last-known address of record, a telephone hearing was held on April 3, 2010. The claimant participated in the hearing. Based on the evidence, the arguments of the claimant, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Should the claimant's request to back date his weekly claims be granted?

FINDINGS OF FACT:

The claimant established a claim for unemployment insurance benefits effective February 15, 2009. His weekly benefit amount was calculated to be \$389.00, and his earnings limitation for partial benefits was \$404.00. He actively filed weekly continued claims through April 18, 2009, some weeks reporting wages and receiving benefits, and some weeks reporting no wages and receiving benefits. The claimant returned to full-time employment after April 18 and ceased filing weekly continued claims through October.

He reopened his claim effective November 1, 2009 and resumed filing weekly continued claims, some weeks reporting wages and receiving benefits, and some weeks reporting no wages and receiving benefits. There were no issues with his weekly claim filing through January 2, 2010. That week he reported no wages and received regular benefits.

For the week ending January 9, 2010 the claimant earned sufficient wages to prevent him from receiving any full or partial benefits. He did not file a weekly claim that one week. For the week ending January 16 he again earned sufficient wages to prevent him from receiving any full or partial benefits. However, in order to keep his claim active, on January 16 he attempted to make a weekly continued claim to report both his wages of \$780.00 for that week, as well as to report the \$760.00 he had earned for the week ending January 9. When he made this attempt,

he received a message that he needed to reopen his claim. He did not believe this was correct, but did re-file on line on January 17. He still did not believe the system was correct, and as of January 18 began calling into his local Agency office virtually daily, leaving messages, but receiving no return calls.

For the week ending January 23 the claimant earned no wages; on that weekend he again attempted to make a weekly continued claim to report no wages, but received a message indicating his claim was in "determination" status. He finally went into the local Agency office on January 25 and was given instruction to request backdating, which he did. He regained the ability to make normal weekly claims in the system as of the week ending January 30, 2010.

REASONING AND CONCLUSIONS OF LAW:

Agency rule 871 IAC 24.2(1)g provides in pertinent part:

(g) No continued claim for benefits shall be allowed until the individual claiming benefits has completed a voice response continued claim or claimed benefits as otherwise directed by the department. The weekly voice response continued claim shall be transmitted not earlier than noon of the Saturday of the weekly reporting period and, unless reasonable cause can be shown for the delay, not later than close of business on the Friday following the weekly reporting period.

The administrative law judge finds reasonable cause in the claimant's bona fide efforts to make timely weekly filings, thwarted by apparent technical difficulties and lack of response by the Agency to the claimant's prompt efforts to communicate with the Agency. Weekly claims should be entered for the claimant for the weeks ending January 9, 2010, showing earnings of \$760.00 in wages, so no benefits will be paid; January 16, 2010, showing earnings of \$780.00, so no benefits will be paid; and January 23, 2010, showing no earnings, so benefits will be paid.

DECISION:

The representative's February 4, 2010 decision (reference 01) is reversed. The claimant's request to backdate weekly continued claims for the three weeks ending January 9, January 16, and January 23, 2010 is granted.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/css