

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

SEMSO KAJTEZOVIC
Claimant

APPEAL 17A-UI-08104-DB-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

OC: 12/25/16
Claimant: Appellant (2)

Iowa Code § 96.6(1) – Filing Claims
Iowa Admin. Code r. 871-24.2(1)a, h – Backdating

STATEMENT OF THE CASE:

The claimant/appellant filed an appeal from the August 4, 2017 (reference 02) unemployment insurance decision that denied his request to backdate his additional claim prior to July 30, 2017. The claimant was properly notified of the hearing. A telephone hearing was held on August 28, 2017. The claimant, Semso Kajtezovic, participated personally. CTS Language Link provided language interpretation services for claimant. The administrative law judge took administrative notice of the claimant's unemployment insurance benefits records.

ISSUE:

Should the claimant's request to backdate his additional claim prior to July 30, 2017 be granted?

FINDINGS OF FACT:

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: Claimant filed an original claim effective December 25, 2016 and an additional claim effective July 30, 2017. The claimant desires to backdate the additional claim to July 3, 2017.

Claimant works full-time for Bertch Cabinets and the plant was shut down and claimant was laid off work for the one-week period ending July 8, 2017. Claimant was able to and available for work if the plant had not shut down. Claimant did not earn any wages during the one-week period ending July 8, 2017.

Claimant tried to submit his weekly claim online at the end of the week but it did not work because he had not re-opened his additional claim. Claimant was unaware that he was to re-open an additional claim prior to filing his weekly claim for benefits because his employer had always filed his initial unemployment claim on claimant's behalf in the past. This was the first time that claimant was required to re-open his claim himself.

Claimant contacted his local Iowa Workforce Development office on July 11, 2017 at 4:10 p.m. and was told that his request to backdate his claim was submitted. He telephoned the office a

few days later and was told that his request to backdate had not been submitted when he visited on July 11, 2017. It was re-submitted at that time and his request to backdate his claim was denied.

REASONING AND CONCLUSIONS OF LAW:

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

Iowa Code § 96.6(1) provides:

96.6 Filing — determination — appeal.

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), (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 a 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.

Claimant has presented sufficient grounds for having failed to establish his additional claim effective July 2, 2017 because he tried to file online, was locked out of the system and then was given incorrect information by an Iowa Workforce Development representative regarding his initial backdating request. Claimant did not earn any wages for this one-week period. Backdating is allowed.

DECISION:

The August 4, 2017 (reference 02) decision is reversed. The claimant's request to backdate the additional claim to July 2, 2017 is granted, as are retroactive benefits for the same one-week period ending July 8, 2017, so long as claimant is otherwise eligible.

Dawn Boucher
Administrative Law Judge

Decision Dated and Mailed

db/rvs