

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**VICTORIA M RIOS**  
Claimant

**APPEAL NO. 09A-UI-00341-H2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 01-20-08 R: 03  
Claimant: Appellant (1)**

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

**STATEMENT OF THE CASE:**

Claimant filed a timely appeal from the December 31, 2008, reference 02, decision that denied the request to backdate the claim for benefits prior to December 21, 2008. After due notice was issued, a hearing was held by telephone conference call on January 21, 2009. Claimant participated.

**ISSUE:**

The issue is whether claimant can backdate the claim prior to December 21, 2008.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant filed an additional claim for benefits with an effective date of December 21, 2008. She filed an additional claim for benefits on January 11, 2009. The claimant went into her local Workforce office on December 22 and filled out some papers to claim unemployment benefits, as her hours had been reduced during the previous week. During the previous week, the claimant worked two hours on Monday, December 15; eight hours on Tuesday, December 16; no hours on Wednesday, December 17; eight hours on Thursday, December 18; and three hours on Friday, December 19. The claimant could have gone to her local office on Monday, as she only worked two hours that day, on Wednesday as she did not work at all, or on Friday as she worked only three hours. The claimant chose not to file her claim online on Saturday or to go to her local office during the week her hours were reduced. After filing her claim for benefits, the claimant did not call in on Saturday for any weekly benefits until after she filed an additional claim for benefits during the week beginning January 11, 2009.

The claimant has previously filed four additional claims for unemployment benefits during this claim year when her hours were reduced.

**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.

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 claimant had an opportunity to file her claim for benefits during the week ending December 20, as she worked only two hours on Monday, none on Wednesday, and only three on Friday. The claimant has previously filed additional claims for unemployment insurance benefits during weeks when her hours were reduced, demonstrating her ability to file in the week she became unemployed. The claimant's failure to report to her local office until Monday, December 22, 2008, is not considered a good-cause reason for having failed to file a claim during the first week of unemployment. Backdating is denied.

**DECISION:**

The December 31, 2008, reference 02, decision is affirmed. The claimant's request to backdate the claim is denied.

---

Teresa K. Hillary  
Administrative Law Judge

---

Decision Dated and Mailed

tkh/kjw