

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JOHN W BALVANZ
Claimant

BERTCH CABINET MFG CO
Employer

APPEAL 17A-UI-07419-CL-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 07/09/17
Claimant: Appellant (2)**

Iowa Code § 96.6(1) – Filing Claims
Iowa Admin. Code r. 871-24.2(1)a & h(1) & (2) – Backdating

STATEMENT OF THE CASE:

Claimant filed a timely appeal from the July 19, 2017, (reference 01) unemployment insurance decision that denied the request to backdate the claim for benefits prior to July 9, 2017. After due notice was issued, a hearing was scheduled to be held by telephone conference call on August 8, 2017. Claimant participated. Employer participated through human resource generalist, Tom Schmidt and supervisor, Chad Bedard. Claimant's Exhibit A was received. Employer's Exhibit 1 was received.

ISSUE:

May the claim be backdated prior to July 9, 2017?

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 July 9, 2017, and desires to backdate the claim to July 2, 2017. Claimant delayed filing the claim because he did not realize he was required to file a claim before the close of business on Friday during the week he was unemployed. In the past, employer filed initial claims on behalf of its employees. It has discontinued that practice pursuant to instructions from Iowa Workforce Development. Claimant was laid off during the one week ending July 8, 2017. Claimant earned no benefits, holiday, or vacation pay that week. Claimant attempted to file his initial claim on Saturday, July 8, 2017, but was unable to do so. On Monday, July 10, 2017, claimant sought assistance from the agency and requested to backdate his claim. Although the June 2017 Unemployment Insurance Benefits Handbook specifies that a claim for benefits must be filed "Monday through Friday, 8:00 am to 4:30 pm," claimant would not have received a copy of the handbook until *after* he filed his initial claim.

REASONING AND CONCLUSIONS OF LAW:

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

Iowa Code § 96.6(1) provides:

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) and (2) provide:

Procedures for workers desiring to file a claim for benefits for unemployment insurance.

(1) § 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.

In this case, claimant was not aware he was required to file an initial claim for benefits prior to 4:30 p.m. on the Friday during the first week of unemployment. Since claimant attempted to file the claim on Saturday, but was locked out of the online claim system, the delay in filing on Monday is considered a good cause reason for having failed to file a claim during the first week of unemployment. Backdating is allowed.

DECISION:

The July 19, 2017, (reference 01) unemployment insurance decision is reversed. The claimant's request to backdate the claim to July 2, 2017, is granted, as are retroactive benefits for the same time period. Claimant did not earn any wages or vacation or holiday pay during the one week ending July 8, 2017.

Christine A. Louis
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515)478-3528

Decision Dated and Mailed

cal/scn