

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TODD O POLLARD
Claimant

APPEAL NO: 13A-UI-05729-ST

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 04/14/13
Claimant: Appellant (2)**

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

STATEMENT OF THE CASE:

The claimant appealed a department decision dated April 22, 2013, reference 01, that denied his request to backdate his claim prior to April 14, 2013. A telephone hearing was held on June 26, 2013. The claimant participated.

ISSUE:

Whether the claimant's claim may be backdated.

FINDINGS OF FACT:

The administrative law judge having heard the witness testimony and having considered the evidence in the record finds: The claimant's employer closed the restaurant due to a water main break on April 7, but it advised claimant and other employees it would re-open that week. Claimant delayed the filing of his UI claim because he thought he would work the week ending April 14. It was not until late in the week the employer advised employees it was delaying the business re-open date due to some repair issues.

REASONING AND CONCLUSIONS OF LAW:

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 administrative law judge concludes that the claimant established a justifiable cause for the delay in filing a claim for the week ending April 14, 2013, and his request to backdate the claim to April 7 is approved.

The claimant delayed filing a UI claim because he reasonably believed the employer's message the business would re-open the week ending April 14. This is a justifiable reason for the delay.

DECISION:

The department decision dated April 22, 2013, reference 01, is reversed. The claimant may backdate his UI claim for benefits to April 2, 2013. Benefits are allowed, provided the claimant is otherwise eligible.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/pjs