

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ANTHONY RODRIGUEZ**  
Claimant

**APPEAL NO: 14A-UI-01313-ET**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 01/05/14  
Claimant: Appellant (2)**

871 IAC 24.2(1) A&H (1)&(2) – Backdating Claim  
Section 96.6-2 – Timeliness of Appeal

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the January 16, 2014, reference 01, decision that denied his request to backdate his claim. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on February 25, 2014. The claimant participated in the hearing.

**ISSUE:**

The issues are whether the claimant's appeal is timely and whether his unemployment insurance benefits claim can be backdated.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: A disqualification decision was mailed to the claimant's last-known address of record on January 16, 2014. The claimant did not receive the decision until after the due date. The decision contained a warning that an appeal must be postmarked or received by the Appeals Section by January 26, 2014. That date fell on a Sunday so the appeal was actually due January 27, 2014. The appeal was not filed until February 3, 2014, which is after the date noticed on the disqualification decision. Because the claimant did not receive the decision until after the due date for appeal, the administrative law judge finds the claimant's appeal is timely.

The claimant filed a claim for benefits with an effective date of January 5, 2014. He was laid off for the holidays from Express Services, last assigned to Con-Tor Containers, from December 22, 2013 through January 1, 2014. He called the local office to file his claim by phone because the computer would not take his information and consequently believed his claim had been filed. He was then out of town from the evening of December 21, 2013 through the evening of January 1, 2014, and was unable to contact the local office during that time frame.

## REASONING AND CONCLUSIONS OF LAW:

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

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.

Failure by the Department to file the claimant's claim for benefits when he called is considered a good cause reason for having failed to file a claim during the first week of unemployment. Therefore, backdating is allowed.

**DECISION:**

The January 16, 2014, reference 01, decision is reversed. The claimant's appeal is timely and his request to backdate his claim is allowed.

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Julie Elder  
Administrative Law Judge

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Decision Dated and Mailed

je/pjs