

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ED J WICKENKAMP
Claimant

APPEAL 17A-UI-05010-DB-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

**OC: 08/14/16
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 May 10, 2017 (reference 04) unemployment insurance decision that denied his request to backdate his claim prior to May 7, 2017. The claimant was properly notified of the hearing. A telephone hearing was held on May 30, 2017. The claimant, Ed J. Wickenkamp, participated personally. The administrative law judge took administrative notice of the claimant's unemployment insurance benefits records.

ISSUE:

Should the claimant's request to backdate his claim prior to May 7, 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 a claim effective August 14, 2016 and an additional claim date of May 7, 2017. The claimant desires to backdate the additional claim to April 30, 2017. Claimant works full-time for John Deere Monday through Friday each week. He was on temporary layoff May 1 through May 5, 2017. His supervisor told him that he needed to wait until after he returned back to work to file for unemployment insurance benefits.

On or about May 8, 2017, claimant went into his local Iowa Workforce Development office to file his claim for benefits. Claimant believed that he had properly filed his claim for benefits, but he had not filed in time. Claimant was able to and available for work for the one-week period ending May 6, 2017. Claimant received no wages, holiday pay or vacation pay for this one-week period.

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 file a claim during the one-week period of unemployment ending on May 6, 2017 because his employer gave him incorrect information. Backdating is allowed.

DECISION:

The May 10, 2017 (reference 04) decision is reversed. The claimant's request to backdate the claim to April 30, 2017 is granted, as are retroactive benefits for the same one-week period ending May 6, 2017.

Dawn Boucher
Administrative Law Judge

Decision Dated and Mailed

db/rvs