

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**SCOTT P FENN**  
Claimant

**APPEAL NO: 13A-UI-06710-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 05/12/13**  
**Claimant: Appellant (1)**

871 IAC 24.2(1)h - Backdate

**PROCEDURAL STATEMENT OF THE CASE:**

The claimant appealed a representative's May 29, 2013 determination (reference 02) that denied his request to backdate his claim prior to May 12, 2013. The claimant did not respond to the hearing notice or participate in the hearing.

The claimant contacted the Appeals Section about three hours after the hearing had been scheduled. The claimant requested that the hearing be reopened.

Based on the claimant's request to reopen the hearing, the administrative record, and the law, the administrative law judge denies the claimant's request to reopen the hearing and to backdate his claim.

**ISSUES:**

Is there good cause to reopen the hearing?

Should the claimant's request to backdate his claim be granted?

**FINDINGS OF FACT:**

The claimant was on a temporary layoff the week of May 6, 2013. He did not understand that he could file a claim when he was on a temporary layoff. The claimant established a claim for benefits during the week of May 12, 2013. The claimant received benefits for the week of May 12 through 18. He requested that his claim be backdated to May 5, 2013.

A hearing notice was mailed to the claimant on June 19, informing him about the date and time of his scheduled hearing. The claimant received the hearing notice, but did not contact the Appeals Section before the scheduled hearing to provide the phone number at which he could be contacted to participate. As a result, the claimant was not called for the scheduled hearing.

The claimant called the Appeals Section about three hours after the scheduled hearing. He had not called before because he had not read the instructions that he was to call the Appeals Section and provide his phone number before the scheduled hearing.

**REASONING AND CONCLUSIONS OF LAW:**

If a party responds to a hearing notice after the record has been closed and the party who participated at the hearing is no longer on the line, the administrative law judge can only ask why the party responded late to the hearing notice. If the party establishes good cause for responding late, the hearing shall be reopened. The rule specifically states that failure to read or follow the instructions on the hearing notice does not constitute good cause to reopen the hearing. 871 IAC 26.14(7)(b) and (c).

Although the hearing notice informed the claimant that he was to immediately call the Appeals Section when he received the hearing notice to provide the phone number to call him at the time of the hearing, the claimant did not do this. The claimant did not contact the Appeals Section until almost three hours after the scheduled hearing. The claimant's failure to read and follow the hearing instructions in addition to failing to contact the Appeals Section within a reasonable time of the scheduled hearing does not establish good cause to reopen the hearing. The claimant's request to reopen the hearing is denied.

When filing for benefits, the effective date is Sunday of the current calendar week in which the claim is filed. A claim may be backdated if a claimant establishes sufficient grounds to excuse the delay in filing a claim for benefits. Reasons for filing a late claim include receiving incorrect advice from a workforce employee and if an employer intimidated a claimant to prevent the prompt filing of a claim. 871 IAC 24.2(h).

The record does not establish that the claimant received incorrect information or that his employer tried to prevent him from establishing a claim for benefits. The claimant just did not understand when he could file a claim for benefits. The claimant's request to backdate his claim to May 5, 2013, is denied.

**DECISION:**

The claimant's request to reopen the hearing is denied. The representative's May 29, 2013 determination (reference 02) is affirmed. The claimant's request to backdate his claim to May 5, 2013, is denied. The effective date of the claimant's claim is May 12, 2013.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/pjs