

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TAMMY FISH
Claimant

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

APPEAL NO: 14A-UI-05807-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 11/17/13
Claimant: Appellant (1)

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

STATEMENT OF THE CASE:

The claimant appealed a department decision dated June 2, 2014, reference 01 that denied her request to backdate her claim prior to May 25, 2014. A telephone hearing was held on June 30, 2014. 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 filed an unemployment claim on November 17, 2013 and reopened it December. She filed an additional claim effective May 25, 2014. She claimed for and received benefits continuously through the week ending June 21, 2014.

The department mailed the claimant a May 28 letter stating it was de-activating claimant's claim due to reporting excessive wages and not receiving benefits for three weeks. Claimant objected. Her concern is the department would not process her claim for the week ending May 24.

The department record shows claimant reported wages of \$405.00 for the week ending May 24 and it paid claimant a weekly benefit of \$125.00. Claimant continued to file claims for the weeks ending May 31, June 7, June 14 and June 21, and the department processed these claims.

REASONING AND CONCLUSIONS OF LAW:

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 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 there is no backdate claim issue in this matter, so claimant's request is denied.

The department record shows there is no claim deactivation and/or interruption on claimant's claim though a notice was sent to claimant of this intended action. Claimant claimed for and received a weekly benefit for the week ending May 24, 2014 and the department accepted her weekly claims thereafter.

DECISION:

The department decision dated June 2, 2014 reference 01 is affirmed. Claimant's request to backdate her claim is denied.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

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