

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JOSEPH W FLOWERS

Claimant

APPEAL NO: 12A-UI-03171-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

A-Z MANUFACTURING & SALES CO INC

Employer

OC: 01/29/12

Claimant: Appellant (2)

871 IAC 24.2(1)(h) – Backdate a Claim

871 IAC 24.2(1) – Retroactive Benefits

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed because he wanted benefits for the week ending January 28 and a representative's March 21, 2012 determination (reference 02) held he was not eligible to receive benefits as of January 29, 2012, because he still worked the same hours and wages that he had been hired to work. The claimant participated in the hearing. Namsan Xayaphet appeared on the employer's behalf.

The Appeals Section set up the hearing for reference 02 that held the claimant was not eligible to receive benefits as of January 29, 2012, because he was working full time. Both parties agreed this determination is correct. The claimant appealed because the real issue in this case is whether the claimant's claim can be backdated to January 22 (reference 04) and whether he is eligible to receive benefits for the week ending January 28, 2012. Both the claimant and employer waived the right to advance notice of the issues that were to be addressed at the hearing so these issues could be addressed. Both parties agreed the two issues were the crux of the case and wanted the administrative law judge to make a decision on these issues. Based on the evidence, the arguments of the parties, and the law, the administrative law judge concludes the claimant's claim is backdated to January 22, 2012, and he is eligible to receive benefits for the week ending January 28, 2012.

ISSUES:

Should the claimant's claim be backdated to January 22, 2012?

Is the claimant eligible to receive retroactive benefits for the week ending January 28, 2012?

FINDINGS OF FACT:

The employer did not have any work for the claimant to do the week of January 22 through 28, 2012. The claimant was laid off for this one week. The claimant called in a claim for benefits on January 28, 2012. The claimant was asked a series of questions, just as though he had a current claim for unemployment insurance benefits.

The claimant does not know how a claim was established for him as of January 29, 2012. He did not complete an on-line application or go to his local Workforce office. A claim on his behalf

was established as of January 29. The employer protested the claimant's receipt of benefits because the claimant returned to working full time the week of January 29, 2012. The claimant did not file a claim for the week of January 29 through February 4, 2012. He only wanted to and intended to file a claim for the week he was laid off, the week ending January 28, 2012.

After his claim was established the week of January 29, 2012, the claimant received a monetary determination stating he was not eligible to receive benefits because he had not earned enough money. Wages from an employer he had worked for during his base period were not included on the monetary determination. The claimant informed the Department of this error. On February 20, 2012, a corrected monetary determination was issued. This monetary determination held the claimant eligible to receive a maximum weekly benefit amount of \$136.00.

REASONING AND CONCLUSIONS OF LAW:

A claim for benefits is effective as of Sunday in the current calendar week in which a person files or establishes a claim for benefits. Claims can be backdated prior to the week in which the individual files if there are sufficient grounds to justify or excuse the delay in filing a claim. 871 IAC 24.2(1)(h).

When a claimant submits a claim by voice mail response, the claimant must call in on a weekly basis not earlier than noon of the Saturday of the weekly reporting period and, unless reasonable cause can be shown for the delay, not later than close of business on the Friday following the weekly reporting period. 871 IAC 24.2(1).

The evidence indicates the claimant properly called in his claim for the week ending January 28, 2012. Since the claimant called in a weekly claim for the week ending January 28, the Department or the Department's automated system should have realized the claimant did not have a current active claim the week of January 22, 2012. Even if the claimant did not call in a claim until the week of January 29 for the week ending January 28, 2012, he filed a timely weekly claim and there is good cause to backdate his claim to January 22, 2012.

Therefore, his request to backdate his claim to January 22, 2012, is granted. Also, his request for retroactive benefits for the week he was laid off, January 22 through 28, 2012, is also granted.

DECISION:

The representative's March 28, 2012 determination (reference 04) is reversed. The claimant's request to backdate his claim to January 22, 2012 is granted. The claimant's request for retroactive benefits for the week ending January 28, 2012, is also granted.

The representative's March 20 2012 determination (reference 02) that denied the claimant benefits as of January 29, 2012, is affirmed because the claimant returned to work and was again working full time this week. The claimant did not disagree with this the March 20 determination.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css