

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

BRAD J KLINGE
Claimant

APPEAL 17A-UI-06018-CL-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

OC: 05/28/17
Claimant: Appellant (2)

Iowa Code § 96.6(1) – Filing Claims
Iowa Admin. Code r. 871-24.2(1)a & h(1) & (2) – Backdating

STATEMENT OF THE CASE:

Claimant filed a timely appeal from the June 9, 2017, (reference 01) unemployment insurance decision that denied the request to backdate the claim for benefits prior to May 28, 2017. After due notice was issued, a hearing was scheduled to be held by telephone conference call on June 27, 2017. Claimant participated.

ISSUE:

May the claim be backdated prior to May 28, 2017?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant filed a claim for benefits with an effective date of May 28, 2017, and desires to backdate the claim to May 21, 2017. Claimant delayed filing the claim because he did not realize he was required to file his initial claim before the close of business on Friday during the week he was laid off. Claimant had never filed an initial claim before as his employer had previously completed the task on his behalf. Claimant's employer no longer files initial claims for its employees. Claimant was laid off during the one week ending May 27, 2017. Claimant earned no wages that week. That weekend, claimant attempted to file his continued weekly claim but was unable to do so as he had never filed an initial claim. The next week, claimant went into his local office and was instructed to file an initial claim. Claimant then requested the claim be backdated.

REASONING AND CONCLUSIONS OF LAW:

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

Iowa Code § 96.6(1) provides:

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) and (2) provide:

Procedures for workers desiring to file a claim for benefits for unemployment insurance.

(1) § 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.

The IWD Unemployment Insurance Benefits Handbook indicates a claim effective date is the Sunday of the week in which the application was filed. There is no instruction that a new,

additional or reopened claim must be filed before Saturday of the week of separation or unemployment. Since claimant attempted to file his weekly continued claim on Saturday, but was locked out of the online claim system, the delay in filing in person at the local office on Tuesday, is considered a good cause reason for having failed to file a claim during the first week of unemployment. Backdating is allowed.

DECISION:

The June 9, 2017, (reference 01) unemployment insurance decision is reversed. The claimant's request to backdate the claim to May 21, 2017, is granted, as are retroactive benefits for the same time period. Claimant earned no wages during the one week ending May 27, 2017.

Christine A. Louis
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515)478-3528

Decision Dated and Mailed

cal/scn