

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**EDWARD J DE JONG**  
Claimant

**APPEAL 17A-UI-03457-CL-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE DEVELOPMENT  
DEPARTMENT**

**OC: 03/05/17  
Claimant: Appellant (2)**

Iowa Code § 96.6(2) – Timeliness of Appeal  
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 an appeal from the March 15, 2017, (reference 01) unemployment insurance decision that denied the request to backdate the claim for benefits prior to March 5, 2017. After due notice was issued, a hearing was scheduled to be held by telephone conference call on April 21, 2017. Claimant participated.

**ISSUES:**

Is the appeal timely?  
May the claim be backdated prior to March 5, 2017?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The unemployment insurance decision was mailed to the appellant's address of record on March 15, 2017. The appellant did not receive the decision until Saturday, March 25, 2017. The decision contained a warning that an appeal must be postmarked or received by the Appeals Bureau by March 25, 2017, but stated that if the date falls on a Saturday, the appeal period is extended to the next working day. The appeal was not filed until Tuesday, March 28, 2017, which is after the date noticed on the unemployment insurance decision, because claimant received conflicting information from the agency on Monday, March 27, 2017, about whether he needed to file an appeal. Agency employees in Des Moines told claimant he needed to obtain a statement from employees in Spencer about the need to backdate his claim. Agency employees in Spencer told claimant there was nothing else they could do for him and he needed to file an appeal. By the time the issue was sorted out, it was Tuesday, March 28, 2017, and claimant filed his appeal.

The claimant filed a claim for benefits with an effective date of March 5, 2017, and desires to backdate the claim to February 26, 2017. Claimant attempted to file the claim on Friday, March 3, 2017. Claimant thought the initial filing was successful, but when he went to file his weekly continued claim he was unable to do so. By the time claimant got the issue with his initial claim resolved, it was March 13, 2017.

## **REASONING AND CONCLUSIONS OF LAW:**

The first issue to be considered in this appeal is whether the appellant's appeal is timely. The administrative law judge determines it is.

Iowa Code § 96.6(2) provides, in pertinent part:

The representative shall promptly examine the claim and any protest, take the initiative to ascertain relevant information concerning the claim, and, on the basis of the facts found by the representative, shall determine whether or not the claim is valid, the week with respect to which benefits shall commence, the weekly benefit amount payable and its maximum duration, and whether any disqualification shall be imposed. . . . Unless the claimant or other interested party, after notification or within ten calendar days after notification was mailed to the claimant's last known address, files an appeal from the decision, the decision is final and benefits shall be paid or denied in accordance with the decision.

The claimant's failure to file an appeal within the appeal period was solely because of incorrect information received from an IWD customer service advisor. When he learned about the misinformation, claimant filed an appeal. This delay was prompted by and perpetuated by the agency. See, Iowa Admin. Code r. 871-24.35(2). Therefore, the appeal shall be accepted as timely.

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.

Since claimant attempted to timely file the claim on Friday, March 3, 2017, but was unsuccessful for unknown reasons, he has presented a good cause reason for having failed to file a claim during the first week of unemployment. Backdating is allowed.

**DECISION:**

The March 15, 2017, (reference 01) unemployment insurance decision is reversed. The appeal is timely. The claimant's request to backdate the claim to February 26, 2017, is granted, as are retroactive benefits for the same time period. Claimant earned no wages during the one week ending March 4, 2017.

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Christine A. Louis  
Administrative Law Judge  
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Decision Dated and Mailed

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