

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

MATT SOMMERS
Claimant

APPEAL 15A-UI-11439-SC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 09/20/15
Claimant: Appellant (2/R)**

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

STATEMENT OF THE CASE:

Matt Sommers (claimant) filed an appeal from the October 8, 2015 (reference 03) unemployment insurance decision that benefits and his request to backdate his claim based upon the determination he failed to show just cause to do so. After due notice was issued, a telephone conference hearing was scheduled to be held on October 28, 2015. The claimant participated.

ISSUE:

Should the claimant's request to backdate the claim prior to September 20, 2015 be granted?

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 September 20, 2015 and desires to backdate his claim. The claimant was separated from employment during the week beginning August 23, 2015. He was to receive an alleged severance and vacation time pay out at the end of August. He contacted the IWD local office during the week separated and was advised to hold off on filing his claim until after his vacation pay had expired as he would not be eligible for benefits. The claimant calculated the vacation pay would run out on September 14, 2015. He then waited an additional week to file for benefits as he was also waiting on a business expense to clear. He spoke to another representative at the IWD local office who said the business expense should not affect his benefits but would not give him a definite yes or no answer to his question.

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 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.

The claimant received incorrect information from the IWD local office. He is to file a claim during the week of the separation and report any wages or income received during his weekly reporting to allow the Unemployment Insurance Service Center determine how the alleged severance and vacation pay affected his benefits. Incorrect guidance is considered a good cause reason for the delay in filing the claim. Backdating is allowed.

DECISION:

The October 8, 2015 (reference 03) unemployment insurance decision is reversed. The claimant's request to backdate the claim is granted. The claim should be backdated to August 23, 2015.

REMAND:

The claimant's issue related to the alleged severance has been adjudicated by the Agency. However, he has also received vacation pay. The case is remanded to the Unemployment Insurance Service Center to determine the claimant's eligibility for benefits based on his vacation pay.

Stephanie R. Callahan
Administrative Law Judge

Decision Dated and Mailed

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