

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**RYAN M OSWEILER**  
Claimant

**APPEAL 17R-UI-03096-LJ-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE DEVELOPMENT  
DEPARTMENT**

**OC: 12/18/16**  
**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)g – Retroactive Benefits

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the January 11, 2017 (reference 02) unemployment insurance decision that denied the request for retroactive benefits. After due notice was issued, a telephone conference hearing was scheduled for April 7, 2017. Claimant participated. The administrative law judge took official notice of the administrative record.

**ISSUE:**

Is the appeal timely?  
Should the claimant's request for retroactive benefits be granted for the three-week period ending January 7, 2017?

**FINDINGS OF FACT:**

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: Claimant filed an original claim effective December 18, 2016. Claimant testified that he went online to file his weekly claims for the weeks ending December 24, December 31, and January 7. However, for some reason these claims did not register, and claimant did not receive any benefits for these weeks. Claimant understood that it may take several weeks to get his benefits, so he waited until the second or third week that he filed a claim for benefits to inquire about the status of his claims. Claimant has filed continued claims and has received regular weekly benefits since the week ending January 14, 2017.

Claimant could not recall exactly when he received the decision that denied him retroactive benefits. He testified that as soon as he saw the decision, he called Iowa Workforce Development to seek assistance. Unfortunately, claimant could not get any help. Therefore, he went into his local office to seek assistance in person. He believes that several days passed between the time he received the decision and the time he sought help in person and filed his appeal.

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

For the reasons that follow, the administrative law judge concludes the claimant's request for retroactive benefits is granted.

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:

2. Initial determination. A representative designated by the director shall promptly notify all interested parties to the claim of its filing, and the parties have ten days from the date of mailing the notice of the filing of the claim by ordinary mail to the last known address to protest payment of benefits to the claimant. 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. The claimant has the burden of proving that the claimant meets the basic eligibility conditions of section 96.4. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to section 96.5, except as provided by this subsection. The claimant has the initial burden to produce evidence showing that the claimant is not disqualified for benefits in cases involving section 96.5, subsection 10, and has the burden of proving that a voluntary quit pursuant to section 96.5, subsection 1, was for good cause attributable to the employer and that the claimant is not disqualified for benefits in cases involving section 96.5, subsection 1, paragraphs "a" through "h". 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. If an administrative law judge affirms a decision of the representative, or the appeal board affirms a decision of the administrative law judge allowing benefits, the benefits shall be paid regardless of any appeal which is thereafter taken, but if the decision is finally reversed, no employer's account shall be charged with benefits so paid and this relief from charges shall apply to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

Here, claimant testified that he went to his local office and appealed the decision within the week of receiving it in the mail. Claimant's deadline to file his appeal fell on Saturday, January 21, and pursuant to the rules he had until Monday, January 23 to file the appeal. Claimant appealed the decision in-person on Tuesday, January 24. Additionally, claimant sought help via telephone from the agency and was unable to access any assistance between the time he received the decision and the time he filed his appeal. Claimant's appeal shall be accepted as timely filed.

The next issue is whether claimant is eligible for retroactive benefits. Iowa Code § 96.6(1) provides:

**96.6 Filing — determination — appeal.**

1. *Filing.* Claims for benefits shall be made in accordance with such regulations as the department may prescribe.

In order to be eligible for weekly benefits, the claimant must file a VRU or online web application continued claim or show good cause for the failure to do so to support a request for retroactive benefits. Iowa Admin. Code r. 871-24.2(1)g.

The *Unemployment Insurance Benefits Handbook*, provides in pertinent part at page 13-14:

**CLAIM EFFECTIVE DATE**

The effective date of all UI claims, regardless of filing method, will be the Sunday of the week in which the application was filed.

and

**REACTIVATING A CLAIM**

An individual can start and stop claiming weekly benefits as many times as necessary during the benefit year. This is called a break in reporting status. Any break in reporting requires the individual to file another initial claim application during the week they want to start collecting benefits again.

The *Unemployment Insurance Benefits Handbook*, provides in pertinent part at page 9:

**FILING WEEKLY CLAIMS**

To request UI benefit payments during weeks of unemployment, individuals must certify they:

- are currently unemployed or working reduced hours
- are able to work and available for work
- have not refused any job offers or referrals to a job
- are actively looking for work (unless waived)
- are reporting any pay or pension payment received

**WHEN TO FILE**

The current week is the week that just ended on Saturday. Individuals are strongly encouraged to file their weekly claims between the hours of 9:00 a.m. Saturday through 11:30 p.m. Sunday. Failing to do so can potentially delay benefits.

Claimant testified that he believed he was successfully filing his weekly claims for unemployment insurance benefits. He waited several weeks to inquire about not receiving benefits, as he knew the process could take some time. Claimant's unsuccessful attempts to file continued claims online and resolve the issue by contacting Workforce Advisors are considered good reasons for the delay in filing weekly VRU/online web application continued claims. Moving forward, claimant is urged to review the information in the *Unemployment Insurance Benefits Handbook*. Retroactive benefits are allowed.

**DECISION:**

The January 11, 2017 (reference 02) unemployment insurance decision is reversed. The claimant's request for retroactive benefits is granted.

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Elizabeth A. Johnson  
Administrative Law Judge

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Decision Dated and Mailed