

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

SHANE E SAWYER
Claimant

APPEAL 17A-UI-10595-JP-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

**OC: 12/25/16
Claimant: Appellant (1)**

Iowa Admin. Code r. 871-24.2(1)h(1), (2) – Backdating
Iowa Code § 96.6(2) – Timeliness of Appeal

STATEMENT OF THE CASE:

The claimant filed an appeal from the September 21, 2017, (reference 01) unemployment insurance decision that denied the request to backdate the claim for benefits prior to September 10, 2017. After due notice was issued, a hearing was held by telephone conference call on November 3, 2017. Claimant participated. Official notice was taken of the administrative record with no objection.

ISSUE:

Is the appeal timely?

May the claim be backdated prior to September 10, 2017?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: An unemployment insurance decision was mailed to claimant's last known address of record on September 21, 2017. Claimant received the decision around September 23, 2017, within the appeal period. On October 1, 2017, claimant attempted to file an appeal online. When claimant filed his appeal, the website informed him he would receive a confirmation e-mail. Claimant did not receive a confirmation e-mail after he filed his appeal. After claimant did not receive a confirmation e-mail he went to his local Iowa Workforce Development (IWD) office in Waterloo on October 13, 2017. Claimant then filed a second appeal. The Appeals Bureau did not receive claimant's appeal until October 17, 2017, which is after the date noticed on the unemployment insurance decision. The decision contained a warning that an appeal must be postmarked or received by the Appeals Bureau by October 1, 2017.

Claimant filed a claim for benefits with an effective date of December 25, 2016, and an additional claim effective September 10, 2017, and wishes to backdate the claim to September 3, 2017. Claimant was on a temporary one week layoff for the week beginning September 3, 2017. Claimant normally works ten hour days, Monday through Thursday. Claimant testified he reactivated his claim on September 2, 2017. On September 9, 2017, claimant tried to file his weekly continued claim for the week ending September 9, 2017; however, he was unable to enter in his social security number or phone number online. After

the website did not allow claimant to fill in his social security number or phone number online, he sent an e-mail about the issues he was experiencing. On September 12, 2017, an IWD employee responded that claimant needed to make sure he was on the right website and to use the correct information. On September 12, 2017, claimant called IWD because he thought he was already on the correct website and using the correct information. The IWD employee told claimant to try again on September 17, 2017. On September 17, 2017, claimant was able to get into the website, but he was not able to backdate his claim. Around September 20, 2017, claimant called IWD and an IWD employee entered his information and attempted to backdate his claim. Claimant then received the decision denying his request to backdate his claim.

The department has not failed to recognize the expiration of the claimant's previous benefit year and there is not an interstate claim against another state which has been determined as ineligible.

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 section 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, subsections 10 and 11, 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.

The appellant attempted to file his appeal in a timely manner on October 1, 2017, but it was not received. Once claimant discovered that his appeal was not received by the Appeals Bureau, a second appeal was filed. Therefore, the appeal shall be accepted as timely.

The next issue is whether the claim may be backdated prior to September 10, 2017. The administrative law judge concludes claimant's request to backdate the claim is denied.

Iowa Code section 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) 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 files a claim for benefits.

(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:

The failure of the department to recognize the expiration of the claimant's previous benefit year;

The claimant filed an interstate claim against another state which has been determined as ineligible.

While the claimant may have presented reasons for backdating that would have previously been considered "sufficient grounds" to grant the request, effective July 12, 2017, Iowa Admin. Code r. 871-24.2(1)h(1) and (2) allows backdating for only the two reasons cited above. Neither of those reasons applies in this case. Accordingly, the backdating request must be denied.

DECISION:

The September 21, 2017, (reference 01) unemployment insurance decision is affirmed. Claimant's appeal is timely. Claimant's request to backdate the claim is denied.

Jeremy Peterson
Administrative Law Judge

Decision Dated and Mailed

jp/rvs