

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

FRED H MIHALAKIS
Claimant

APPEAL 15A-UI-10299-DL-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 08/30/15
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 September 4, 2015, (reference 01) unemployment insurance decision that denied the request to backdate the claim for benefits prior to August 30, 2015. After due notice was issued, a hearing was scheduled to be held by telephone conference call on September 29, 2015. No hearing was held as there was sufficient evidence in the appeal letter and administrative record to resolve the matter without testimony.

ISSUE:

Should the claim be backdated prior to August 30, 2015?

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 August 30, 2015, and has presented good cause to backdate the claim to August 23, 2015, because the Unemployment Insurance Benefits Handbook is insufficiently clear about the deadline by which to file an additional claim. He attempted to, but was unable to file a claim over the weekend so filed the following work week. He also was partially unemployed the week ending September 5, 2015, and earned \$374.00 in gross wages for that week.

REASONING AND CONCLUSIONS OF LAW:

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) § 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.

(3) When the benefit year expires on any day but Saturday, the effective date of the new claim is the Sunday of the current week in which the claim is filed even though it may overlap into the old benefit year up to six days. However, backdating shall not be allowed at the change of the calendar quarter if the backdating would cause an overlap of the same quarter in two base periods. When the overlap situation occurs, the effective date of the new claim may be postdated up to six days. If the claimant has benefits remaining on the old claim, the claimant may be eligible for benefits for that period by extending the old benefit year up to six days.

The 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.

Thus, the delay in filing within the next business week are considered good-cause reasons for having failed to file a claim during the first week of unemployment. Backdating is allowed to August 23, 2015, and retroactive benefits are allowed for the two weeks ending September 5, 2015.

DECISION:

The September 4, 2015, (reference 01) unemployment insurance decision is reversed. The claimant's request to backdate the claim to August 23, 2015, is granted, as are the retroactive benefits for the two weeks ending September 5, 2015. The claimant earned gross wages of \$374.00 the week ending September 5, 2015, which shall be considered in calculating partial benefits for that week.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

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