

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

LOUIS J HUSEMANN
Claimant

APPEAL 17A-UI-06055-SC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

OC: 05/28/17
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:

Louis J. Husemann (claimant) filed a timely appeal from the June 7, 2017, reference 01, unemployment insurance decision that denied his request to backdate the claim for benefits prior to May 28, 2017. After due notice was issued, a hearing was held by telephone conference call on June 29, 2017. The claimant participated. No exhibits were offered or received.

ISSUE:

May the claim be backdated prior to May 28, 2017?

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 May 28, 2017, and desires to backdate the claim to May 21, 2017. The claimant works for John Deere (employer) who, prior to January 2016, opened and reactivated claims for its employees that were temporarily laid off. After January 2016, the employees became responsible for opening their own claims. The claimant asked his supervisor prior to his May 21 week-long layoff if he needed to call at the beginning of the week or if he only needed to file his claim at the end of the week. His supervisor said he had given the claimant's information to the human resources department and the claimant only needed to call in at the end of the week. The claimant attempted to file his claim for benefits on Sunday, May 28, 2017. This is the first time the claimant has filed for benefits since November 2015, when the employer reactivated his claim, and he was not offered nor did he receive an Unemployment Insurance Handbook prior to May 28, 2017.

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 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.

The claimant received conflicting information from the employer about the process for filing a claim for benefits. It was his first time filing since he became responsible for opening his own claim for benefits. The claimant also had not received an Unemployment Insurance Handbook prior to opening the most recent claim. The claimant has presented good cause for failing to timely file his claim for benefits. Accordingly, backdating is allowed.

DECISION:

The June 7, 2017, reference 01, unemployment insurance decision is reversed. The claimant's request to backdate the claim to May 21, 2017, is granted.

Stephanie R. Callahan
Administrative Law Judge

Decision Dated and Mailed

src/scn