

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

TERESA G VAN DE BOE
Claimant

APPEAL NO. 15A-UI-11561-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 06/21/15
Claimant: Appellant (1)**

871 IAC 24.2(1)(a) & (h)(1) & (2) – Backdated Claim

STATEMENT OF THE CASE:

Teresa Van De Boe filed a timely appeal from the October 14, 2015, reference 03, decision that denied her request to backdate her additional claim to a date prior to October 11, 2015. After due notice was issued, a hearing was held on October 30, 2015. Ms. Van De Boe participated. The administrative law judge took official notice of the following Agency administrative records: DBRO, KCCO, WAGE-A, and the record of the claimant's contact with an Agency representative on October 13, 2015.

ISSUE:

Whether there is good cause to backdate the claim to a date prior to October 11, 2015.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Teresa Van De Boe established an original claim for benefits that was effective June 21, 2015. Ms. Van De Boe also had a claim for benefits in the preceding year. In connection with the original claim that was effective June 21, 2015, Ms. Van De Boe made two weekly claims before she returned to work and discontinued the claim. Ms. Van De Boe established the original claim for benefits via the Internet. At that time, she received instructions regarding her obligation to make weekly claims for benefits. At that time, she also acknowledged her obligation to review the claimant handbook. Ms. Van De Boe received a copy of the handbook and read through it, including the section that addresses reactivation of lapsed claims. That section appears at page 5 of the 2015 Unemployment Insurance Benefits Handbook, as follows:

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. Any employment during the break must be reported.

The section regarding reactivating the claim appears separate from the weekly reporting requirement, which is addressed at page 9 of the 2015 Unemployment Insurance Benefits Handbook.

On Friday, October 2, 2015, Ms. Van De Boe completed a temporary work assignment through Golden Circle Business Solutions, also known as Portico Staffing Agency. The employer did not say anything to discourage Ms. Van De Boe was filing for unemployment insurance benefits.

On Saturday, October 10, 2015, Ms. Van De Boe attempted to make a weekly claim for unemployment insurance benefits via the telephonic voice response unit. Because Ms. Van De Boe had not reactivated her claim, the system would not allow her to make a weekly claim for benefits. Ms. Van De Boe encountered a message that instructed her to visit the Agency's website or speak with an Agency representative. Ms. Van De Boe's personal computer was not operating correctly on October 10, 2015. Ms. Van De Boe decided to wait until the next Monday and speak to an Agency representative. On Monday, October 12, 2015, Ms. Van De Boe made contact with an Agency representative and was instructed to call back the next day. On October 13, 2015, Ms. Van De Boe spoke with an Agency representative and requested that the additional claim be backdated to the prior week. Workforce Development deemed the additional claim to be effective October 11, 2015.

REASONING AND CONCLUSIONS OF LAW:

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 evidence in the record fails to establish good cause to backdate the claim to a date prior to October 11, 2015. That was the Sunday that started the week during which Ms. Van De Boe took to reactivate the lapsed claim. Ms. Van De Boe had previously received instructions regarding the need to reactivate the claim during the week for which she wished to start getting benefits before she could recommence making weekly claims for benefits. The delay in reactivating the claim, to Monday or Tuesday, October 12 or 13, 2015, was attributable to Ms. Van De Boe. Workforce Development correctly assigned October 11, 2015 as the effective date of the additional claim. The request to backdate the additional claim is denied.

DECISION:

The October 14, 2015, reference 03, decision is affirmed. Good cause does not exist to backdate the additional claim for benefits to a date prior to October 11, 2015. The claimant's request to backdate the claim is denied.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

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