

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

LYNDA S CORNWELL
Claimant

APPEAL 17A-UI-04832-SC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

OC: 04/16/17
Claimant: Appellant (1)

Iowa Code § 96.6(1) – Filing Claims
Iowa Admin. Code r. 871-24.2(1)a & h(1) & (2) – Backdating

STATEMENT OF THE CASE:

Lynda S. Cornwell (claimant) filed a timely appeal from the May 2, 2017, reference 01, unemployment insurance decision that denied the request to backdate the claim for benefits prior to April 16, 2017. After due notice was issued, a hearing was held by telephone conference call on May 24, 2017. The claimant participated.

ISSUE:

May the claim be backdated prior to April 16, 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 April 16, 2017, and desires to backdate the claim to January 29, 2017. The claimant delayed filing the claim because she was temporarily separated and believed the employer would be bringing her back in a matter of weeks. It did not occur to her to file for unemployment insurance benefits until the week of April 16, 2017. The claimant has previously filed for and received unemployment benefits during the 2012, 2013, and 2014 calendar years.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant's request to backdate the claim is denied.

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.

Failure to investigate the availability of unemployment insurance benefits when not related to misinformation is not a good reason to delay filing a claim for benefits. The claimant did not investigate the availability of or file for benefits until April 16, 2017. Backdating is denied.

DECISION:

The May 2, 2017, reference 01, unemployment insurance decision is affirmed. The claimant's request to backdate the claim to January 29, 2017, is denied.

Stephanie R. Callahan
Administrative Law Judge

Decision Dated and Mailed

src/scn