

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RIGOBERTO DELATORRE PEREZ
Claimant

APPEAL NO. 08A-UI-00424-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

H J HEINZ COMPANY - MUSCATINE
Employer

**OC: 12/30/07 R: 04
Claimant: Appellant (1)**

871 IAC 24.2(1)a, h(1)(2) – Backdating Claims

STATEMENT OF THE CASE:

Rigoberto Perez filed an appeal from a representative's decision dated January 9, 2008, reference 01, which denied his request to backdate his claim prior to December 30, 2007. After due notice was issued, a hearing was held by telephone on January 29, 2008. Mr. Perez participated personally. The employer did not respond to the notice of hearing.

ISSUE:

At issue in this matter is whether Mr. Perez has presented sufficient justification to warrant backdating his claim.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Perez has been employed by H J Heinz Company for approximately 11 years. His department has always shut down during the week of Christmas and he has claimed benefits during those times. In 2007, his department was on shut-down during the week of December 23 through 29. Mr. Perez delayed filing a claim for job insurance benefits until January 3, 2008, the date on which he returned to work. During the shut-down, he thought about filing a claim but continued to put off doing so.

REASONING AND CONCLUSIONS OF LAW:

Mr. Perez has experienced a work shut-down at Christmas during each of the several years he has worked for Heinz. Given his past experience filing for benefits, he knew or should have known that he had to file immediately after his temporary separation in order to receive benefits. It is clear from his testimony that he thought about filing before he returned to work on January 3, 2008. It was his choice to delay filing. His delay was not based on any misinformation from either Heinz or Workforce Development.

After considering all of the evidence, the administrative law judge concludes that Mr. Perez has not established good cause for the delay in filing his claim. As such, his request to backdate his claim prior to December 30, 2007 is denied.

DECISION:

The representative's decision dated January 9, 2008, reference 01, is hereby affirmed. Mr. Perez has not established justification to warrant backdating his claim prior to December 30, 2007.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/kjw