

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TERRI L IRWIN
Claimant

APPEAL NO: 13A-UI-11356-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 08/18/13
Claimant: Appellant (2)

871 IAC 24.2(1)g – Retroactive Benefits

STATEMENT OF THE CASE:

The claimant appealed a department decision dated September 27, 2013, reference 01, that denied her request for retroactive benefits for the 5-week period ending September 21, 2013. A telephone hearing was held on October 30, 2013. The claimant participated.

ISSUE:

The issue is whether claimant had a reasonable ground for the delay in the filing of her claim.

FINDINGS OF FACT:

The administrative law judge having heard the claimant's testimony and having considered the evidence in the record finds: The claimant filed an unemployment claim effective August 18, 2013. The claimant was a long tenured employee at H. J. Heinz who was separated from employment on August 15. Claimant had no prior unemployment claim experience.

While visiting with a local department representative claimant stated she expected to receive five weeks of unpaid vacation pay. The representative advised claimant not to file claims for that period for that reason. The same advice was later confirmed by another department representative. Claimant re-opened her claim on September 24 and began receiving weekly benefits. She later learned a co-worker who separated under similar circumstance had claimed for an received benefits from the outset of his unemployment.

REASONING AND CONCLUSIONS OF LAW:

871 IAC 24.35(1) provides:

(1) Except as otherwise provided by statute or by division rule, any payment, appeal, application, request, notice, objection, petition, report or other information or document submitted to the division shall be considered received by and filed with the division:

a. If transmitted via the United States postal service, on the date it is mailed as shown by the postmark, or in the absence of a postmark the postage meter mark of the

envelope in which it is received; or if not postmarked or postage meter marked or if the mark is illegible, on the date entered on the document as the date of completion.

b. If transmitted by any means other than the United States postal service on the date it is received by the division.

The administrative law judge concludes claimant established a reasonable cause for the delay in filing claim(s) for the five-week period ending September 21, 2013, and her request for retroactive benefits for the period is approved.

While there might be a eligibility for benefits issue due to receiving vacation pay, the department should check to see if the employer is protesting this issue. If the employer does not, all the vacation pay paid in a lumps sum is reportable for one week, only. The department should not discourage claimant from claiming for benefits where there is no employer protest.

DECISION:

The department decision dated September 27, 2013 reference 01 is reversed. The claimant's request for retroactive benefits for the five-week period ending September 21, 2013 is approved. Benefits are allowed, provided the claimant is otherwise eligible.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/css