

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KELVIN T HOLMON
Claimant

APPEAL NO. 16A-UI- 09164-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 12/20/15
Claimant: Appellant (1)**

Iowa Admin. Code r. 871-24.2(1)h(1) & (2) – Backdating

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated August 17, 2016, reference 04, which denied claimant's request for retroactive benefits. After due notice, a telephone conference hearing was scheduled for and held on September 9, 2016. Claimant participated personally.

ISSUE:

The issue in this matter is whether backdated benefits should be allowed.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant is employed through Uniparts Olson. Claimant filed his original claim in this matter on December 20, 2015 while being laid off for that week. Claimant was laid off again on the week of July 24-30, 2016. Claimant filed a claim for benefits with an effective date of July 31, 2016. Claimant asserts that the claim should be backdated because claimant was laid off the previous week, and as a result claimant should be entitled to benefits.

Claimant stated that he misread instructions alerting him to reopen his claim early in the week of his layoff, such that he is able to file his weekly claim at the end of the week. Claimant did not reopen his claim early in the week of his layoff, but did attempt to reopen his claim at the end of the week. As his claim hadn't been reopened as per instructions, claimant was not able to successfully file his weekly claim.

REASONING AND CONCLUSIONS OF LAW:

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

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) Section 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.

Misreading instructions is not considered a good cause reason for having failed to file a claim during the first week of unemployment. Backdating is denied.

DECISION:

The decision of the representative dated August 17, 2016, reference 04, is affirmed. Claimant's request to backdate the claim is denied.

Blair A. Bennett
Administrative Law Judge

Decision Dated and Mailed

bab/pjs