

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

BRITTNEY A JOHNSON
Claimant

APPEAL 17A-UI-05405-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

**OC: 03/19/17
Claimant: Appellant (2R)**

871 IAC 24.2(1)h(1) & (2) – Backdating

STATEMENT OF THE CASE:

Claimant filed a timely appeal from the May 17, 2017, (reference 03) decision that denied the request to backdate the claim for benefits prior to May 7, 2017. After due notice was issued, a hearing was held by telephone conference call on June 7, 2017. Claimant participated.

ISSUE:

Can the claimant's claim for unemployment insurance benefits be backdated prior to May 7, 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 March 19, 2017 and an additional date of May 7, 2017 and desires to backdate the additional claim date to March 26, 2017. Claimant stopped filing her weekly claims because she was told by an IWD employee that she could not receive unemployment insurance benefits during weeks when she was receiving severance pay from her former employer. The IWD employee led the claimant to believe she should not make weekly claims during the time she received severance payments. When the claimant learned during her separation hearing that she should have filed every week and let the agency determine if the severance payments were even deductible from her unemployment insurance benefits, she filed to have her additional claim date back dated to March 26, 2017. The agency has made no determination as to whether the claimant received severance payments that may be deductible from her unemployment insurance benefits.

REASONING AND CONCLUSIONS OF LAW:

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

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.

Incorrect guidance or information from IWD claim system is considered a good cause reason for the delay in filing the claim. Claimant's additional date shall be backdated to March 26, 2017.

REMAND:

The issue of whether the claimant made the required job searches during the weeks she did not claim benefits and whether the claimant received severance payments that must be deducted from her unemployment insurance benefits is remanded to the UISC for a review and determination.

DECISION:

The May 17, 2017, (reference 03) unemployment insurance decision is reversed. The claimant's request to backdate the additional claim date to March 26, 2017 is granted.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/rvs