

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**REGINALD JONES**

Claimant

**APPEAL NO: 15A-UI-13424-JE-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 11/30/14**

**Claimant: Appellant (2)**

871 IAC 24.2(1) A&H (1)&(2) – Backdating Claim

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the December 3, 2015, reference 01, decision that denied his request to backdate his claim. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on December 29, 2015. The claimant participated in the hearing.

**ISSUE:**

The issue is whether the claimant's unemployment insurance benefits claim can be backdated.

**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 November 30, 2014. He filed an additional claim with an effective date of November 29, 2015; after working 10 hours and then being laid off from Kipter Landscaping and Lawn Care November 15, 2015.

The claimant attempted to file his additional claim November 21, 2015 but his computer did not seem to work correctly so he went to the Dubuque office November 23, 2015; and was told his claim did go through and he did not need to worry about it further. The claimant did not receive benefits for the week ending November 21, 2015 and consequently called the Des Moines office, at which time a representative took his claim by phone and stated it was filed. The claimant still did not receive benefits, however, and again contacted the Department. He was told he would receive a decision regarding whether his claim could be backdated in the mail. The claimant received a representative's decision denying his request to backdate his claim and subsequently filed this appeal.

**REASONING AND CONCLUSIONS OF LAW:**

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

Iowa Admin. Code r. 871-24.2(1)h(1), (2) and (3) 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.

(3) When the benefit year expires on any day but Saturday, the effective date of the new claim is the Sunday of the current week in which the claim is filed even though it may overlap into the old benefit year up to six days. However, backdating shall not be allowed at the change of the calendar quarter if the backdating would cause an overlap of the same quarter in two base periods. When the overlap situation occurs, the effective date of the new claim may be postdated up to six days. If the claimant has benefits remaining on the old claim, the claimant may be eligible for benefits for that period by extending the old benefit year up to six days.

The claimant contacted the Dubuque Workforce office November 23, 2015 to make sure he correctly filed his claim and was told he successfully filed but he did not receive benefits for the week ending November 21, 2015. The following week he called the Des Moines Workforce office and the representative indicated he had taken his claim and it was filed and he should expect to receive benefits for the week ending November 28, 2015. Neither the Dubuque nor

the Des Moines office gave the claimant correct information. Because the claimant received incorrect advice from two Workforce employees, he has established a good cause reason for having failed to file his claim during his first week of unemployment. Therefore, backdating is allowed effective the week ending November 21 and the week ending November 28, 2015.

**DECISION:**

The December 3, 2015, reference 01, decision is reversed. The claimant's request to backdate his claim to November 21, 2015, and also covering the week ending November 28, 2015, is allowed.

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Julie Elder  
Administrative Law Judge

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Decision Dated and Mailed

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