

**IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI**

**BEN W GRUNDMEIER
225 WILEY BLVD SW APT 4
CEDAR RAPIDS IA 52405**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**Appeal Number: 04A-UI-12525-JTT
OC: 8/22/04 R: 03
Claimant: Appellant (1)**

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party request the Appeals Section to reopen the record at the address listed at the top of this decision or appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319.**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

871 IAC 24.2-1-g – Retroactive Benefits

STATEMENT OF THE CASE:

The claimant filed an appeal from an unemployment insurance decision dated November 18, 2004, reference 03, that denied the claimant's request for retroactive benefits for the period of October 10, 2004 to November 6, 2004. After due notice was issued, a telephone hearing was held on December 15, 2004. The claimant participated. Exhibits A, B, C, and D were admitted.

FINDINGS OF FACT:

Having heard the testimony of the claimant and having examined all of the evidence in the record, the administrative law judge finds: Mr. Grundmeier established a claim for unemployment insurance benefits effective the benefit week that began August 22, 2004. Mr. Grundmeier completed a voice response continued claim for the benefit weeks ending

August 28, September 4, September 11, September 18, September 25, October 2, and October 9. However, Mr. Grundmeier did not complete a voice response continued claim for the benefit weeks ending October 16, October 23, October 30, and November 6. Nor did Mr. Grundmeier by any other approved means continue his claim for the benefit weeks ending October 16, October 23, October 30, and November 6. Mr. Grundmeier returned to work on November 8, 2004.

On November 15, Mr. Grundmeier went to the Cedar Rapids Workforce Development Center and attempted at that point to claim benefits for the weeks he had failed to continue his claim by approved means. A staff member of that office assisted Mr. Grundmeier in completing "Claim For Benefits" forms for the benefit weeks ending October 16, October 23, October 30, and November 6. In addition, the staff member assisted Mr. Grundmeier in completing a "Statement of Fact." Mr. Grundmeier provided a verbal report and the staff member recorded that information on the documents. Mr. Grundmeier then signed and certified the documents as true. The "Statement of Fact" contains the following: "I request payment for W/E 10-16-04 thru 11-6-04 - I did call in each week - but apparently the calls didn't take - I did do my work search for each week - I returned to work on 11-8-04." See Exhibits B, C and D. On November 17, the agency entered the information from the "Claim For Benefits" forms into the agency's computer system. See Exhibit D.

REASONING AND CONCLUSIONS OF LAW:

871 IAC 24.2(1)g provides:

g. No continued claim for benefits shall be allowed until the individual claiming benefits has furnished to the department a signed Form 60-0151, Claim for Benefits, or filed a voice response continued claim. The biweekly claim for benefit payment shall be mailed not earlier than noon of the second Saturday of the biweekly reporting period and, unless reasonable cause can be shown for the delay, not later than Friday of the week immediately following the biweekly reporting period. The weekly voice response continued claim shall be transmitted not earlier than noon of the Saturday of the weekly reporting period and, unless reasonable cause can be shown for the delay, not later than close of business on the Friday following the weekly reporting period.

The question is whether the evidence in this record establishes that Mr. Grundmeier took the appropriate steps to remain eligible for unemployment insurance benefits during the benefit weeks ending October 16, October 23, October 30, and November 6. It does not.

After he established his original claim for benefits, Mr. Grundmeier managed to use the automated telephone reporting system without incident for the first seven weeks and received benefits for those weeks.

Mr. Grundmeier has offered contradictory states regarding the steps he took to continue his eligibility during the benefit weeks ending October 16, October 23, October 30, and November 6. In the "Statement of Fact," Mr. Grundmeier asserted he had called in for each of the four weeks at issue, "but apparently the calls didn't take." See Exhibit A. However, Mr. Grundmeier testified at the hearing that he encountered a technical difficulty with the automated telephone reporting system when he tried to use the system for the benefit week ending October 16, and never again attempted to use the system.

Mr. Grundmeier also testified at the hearing that he went to the Cedar Rapids Workforce Development Center soon after he encountered difficulties with the automated system and that he returned to the Center a few days later. However, Mr. Grundmeier's testimony was suspiciously vague and excuse-laden when he was questioned on the details of his contacts with Workforce Development prior to his documented contact with the Agency on November 15.

The administrative law judge concludes that Mr. Grundmeier did not take appropriate steps to continue his claim for unemployment insurance benefits during the benefit weeks ending October 16, October 23, October 30, and November 6. Retroactive benefits will not be allowed.

DECISION:

The unemployment insurance decision dated November 18, 2004, reference 03, is affirmed. The decision disqualifying the claimant from receiving retroactive unemployment insurance benefits for the period of October 10, 2004 to November 6, 2004 remains in effect.

jt/tjc