

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BILLY M KEY
Claimant

APPEAL NO. 08A-UI-11610-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 11/09/08 R: 12
Claimant: Appellant (2/R)

871 IAC 24.2(1)a & h(1) & (2) - Backdating

STATEMENT OF THE CASE:

Billy M. (Michael) Key (claimant) appealed a representative's December 4, 2008 decision (reference 01) that denied the claimant's request to backdate the claim prior to November 9, 2008. After a hearing notice was mailed to the claimant's last-known address of record, a telephone hearing was held on December 29, 2008. The claimant participated in the hearing. During the hearing, Claimant's Exhibits A and B were entered into evidence. Based on the evidence, the arguments of the claimant, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Should the claimant's request to backdate his claim be granted?

FINDINGS OF FACT:

The claimant lived and worked in Iowa for approximately seven years, most recently working out of a home office in Norwalk, Iowa for a company with an office in North Carolina to which he frequently traveled. The claimant had a separation from this employment effective July 18, 2007. He did not establish a claim for unemployment insurance benefits at that time, and as of January 3, 2008 physically moved to a home in North Carolina. On July 18, 2008 he filed an on-line claim for unemployment insurance benefits with the North Carolina agency. He filed in that state as it was his current state of residence and because the office of his most recent employer was in North Carolina. He received confirmation from the North Carolina agency that he had established a claim for unemployment insurance benefits effective July 13, 2008. He proceeded to conduct a search for work and attempted to make weekly claims.

The claimant was encountering problems during his attempts to file weekly claims and attempted to obtain assistance through the North Carolina office. He was advised on multiple occasions when he was able to speak to representatives from a field office that his claim was filed but that it was pending processing due to case backlogs, and was repeatedly told that he needed to be patient. When he still had not been able to complete his attempts to make weekly claims and still had not received any ruling on the status of his claim, on November 13 he went to a regional office of the North Carolina agency to pursue his inquiry. He was initially again told

that his claim was on file and was simply pending processing; when he pressed to speak with a higher level representative. That person also initially concurred that the claimant's claim was on file and simply awaiting processing; but when the claimant explained that he had been told this for several months, she examined the matter closer and indicated that the problem appeared to be that the claimant had no wages reported in North Carolina, but that they had been reported in Iowa, so that he needed to file an Iowa claim. The claimant did so immediately, and his Iowa claim was established with an effective date of November 9.

The claimant actively pursued his work search and remained able and available for work for each of the weeks between the week of July 13 and the week ending November 8, 2008. It is unknown whether North Carolina sent any notification to any of the claimant's prior employer to provide an opportunity for that employer to contest or protest his claim for unemployment insurance benefits. No notice of his claim has been sent to the employer from the Iowa agency.

REASONING AND CONCLUSIONS OF LAW:

Agency rule 871 IAC 24.2(1)h provides that claims for unemployment insurance benefits are ordinarily effective on the Sunday of the calendar week in which the individual files the initial claim. For good cause, a claim may be backdated. The administrative law judge finds good cause in the claimant's good faith attempt to establish a claim for unemployment insurance benefits in North Carolina, the state of his residence and the state in which he had significant business contacts. He should not be penalized for the failure of the North Carolina agency in not sooner recognizing that he needed to file a claim in Iowa. The claimant's Iowa claim should be backdated to July 13, 2008.

The matter will be referred back to the Claims Section for a review and determination as to whether the claimant's prior employer has been properly notified of his claim for unemployment insurance benefits, and if not, to take remedial action.

DECISION:

The representative's December 4, 2007 decision (reference 01) is reversed. The claimant's request to backdate his claim to July 13, 2008 is allowed. The matter is referred back to the Claims Section for review and any necessary action on the notice of claim issue.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/css