

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**WESLEY L HENDERSON**  
Claimant

**APPEAL 17A-UI-00129-DB-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 01/10/16  
Claimant: Appellant (2R)**

Iowa Code § 96.6(1) – Filing Claims  
Iowa Admin. Code r. 871-24.2(1)a, h – Backdating

**STATEMENT OF THE CASE:**

The claimant/appellant filed an appeal from the December 27, 2016 (reference 02) unemployment insurance decision that denied his request to backdate his claim prior to December 18, 2016. The claimant was properly notified of the hearing. A telephone hearing was held on January 26, 2017. The claimant, Wesley L. Henderson, participated personally. The administrative law judge took administrative notice of the claimant's unemployment insurance records.

**ISSUE:**

Should the claimant's request to backdate his claim prior to December 18, 2016 be granted?

**FINDINGS OF FACT:**

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: Claimant filed a claim effective January 10, 2016 and an additional claim date of December 18, 2016. The claimant desires to backdate the claim to December 11, 2016. On or about December 13, 2016 claimant had contacted Iowa Workforce Development ("IWD") and spoke to a representative who told him his claim was reopened. He understood that he needed to file his weekly claim and when he tried to file his weekly claim on Saturday, December 17, 2016; the computer would not accept his weekly claim because no additional claim date had been added. Claimant did not have the necessary information available to him to reopen his claim on Saturday, December 17, 2016 because he was out of town on vacation. Claimant left for vacation on Thursday, December 15, 2016 and returned Thursday, December 22, 2016.

There has been no initial investigation and determination regarding claimant's availability for work the benefit week ending December 24, 2016. The question of whether the claimant was able to and available for work due to being out of town on vacation for the one-week period ending December 24, 2016 will be remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination.

## REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant's request for retroactive benefits is granted.

Iowa Code § 96.6(1) provides:

96.6 Filing — determination — appeal.

1. *Filing.* Claims for benefits shall be made in accordance with such regulations as the department may prescribe.

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 a 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.

Claimant was informed by IWD that that an additional claim was entered and he only needed to continue filing his weekly claims. Claimant attempted to do so the week ending December 17, 2016 but could not because his additional claim had not been established. Receiving incorrect advice from a workforce development employee is considered a good cause reason for having failed to file a claim during the first week of unemployment. Backdating is allowed.

**DECISION:**

The December 27, 2016 (reference 02) decision is reversed. The claimant's request to backdate the claim to December 11, 2016 is granted, as are the retroactive benefits for that one-week time period.

**REMAND:** The availability issue for the one-week period ending December 24, 2016 delineated in the findings of fact is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination.

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Dawn Boucher  
Administrative Law Judge

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Decision Dated and Mailed

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