

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**DANIEL S LYNCH**  
Claimant

**APPEAL 17A-UI-09279-SC-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE DEVELOPMENT  
DEPARTMENT**

**OC: 08/06/17**  
**Claimant: Appellant (1)**

Iowa Code § 96.6(2) – Timeliness of Appeal  
Iowa Code § 96.6(1) – Filing Claims  
Iowa Admin. Code r. 871-24.2(1)a & h(1) & (2) – Backdating

**STATEMENT OF THE CASE:**

Daniel S. Lynch (claimant) filed an appeal from the August 16, 2017, reference 01, unemployment insurance decision that denied his request to backdate the claim for benefits prior to August 6, 2017. After due notice was issued, a hearing was held by telephone conference call on September 28, 2017. The claimant participated. Department's Exhibits D1 and D2 were received. Official notice was taken of the administrative record, specifically the fact-finding documents.

**ISSUES:**

Is the appeal timely?

May the claim be backdated prior to August 6, 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 August 6, 2017, and desires to backdate the claim to July 30, 2017. The claimant delayed filing the claim because he was offered a job to work closer to home, but the job fell through. The claimant did not file until the following week because he had hope the job would come through.

The unemployment insurance decision denying the claimant's request for backdating was mailed to his address of record on August 16, 2017. The claimant did not receive the decision until September 1, 2017, because he was working out of town. The appeal was sent within ten days after receipt of that decision.

## REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant's appeal is timely but his request to backdate the claim is denied.

Iowa Code section 96.6(2) provides, in pertinent part:

The representative shall promptly examine the claim and any protest, take the initiative to ascertain relevant information concerning the claim, and, on the basis of the facts found by the representative, shall determine whether or not the claim is valid, the week with respect to which benefits shall commence, the weekly benefit amount payable and its maximum duration, and whether any disqualification shall be imposed. . . . Unless the claimant or other interested party, after notification or within ten calendar days after notification was mailed to the claimant's last known address, files an appeal from the decision, the decision is final and benefits shall be paid or denied in accordance with the decision.

The claimant did not have an opportunity to appeal the unemployment insurance decision because the decision was not received in a timely fashion. Without timely notice of a disqualification, no meaningful opportunity for appeal exists. See *Smith v. Iowa Emp't Sec. Comm'n*, 212 N.W.2d 471, 472 (Iowa 1973). The claimant filed the appeal within ten days of receipt. Therefore, the appeal shall be accepted as timely.

Iowa Code § 96.6(1) provides:

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) and (2), as amended effective July 12, 2017, 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 files a claim for benefits.

(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:

1. The failure of the department to recognize the expiration of the claimant's previous benefit year;
2. The claimant filed an interstate claim against another state which has been determined as ineligible.

The claimant's prior claim year and this claim year were not subsequently filed, so the department did not fail to recognize the expiration of the prior claim year which would trigger backdating. The claimant did not file his claim in another state. The claimant's reason for delaying to file his claim does not fall under either of the allowable backdating reasons. Backdating must be denied.

**DECISION:**

The claimant's appeal is timely. The August 16, 2017, reference 01, unemployment insurance decision is affirmed. The claimant's request to backdate the claim to July 30, 2017, is denied.

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Stephanie R. Callahan  
Administrative Law Judge

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Decision Dated and Mailed

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