

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

MARK R BAST
Claimant

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

APPEAL 17A-UI-05072-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 04/30/17
Claimant: Appellant (2)

871 IAC 24.2(1)h(1) & (2) – Backdating

STATEMENT OF THE CASE:

Claimant filed a timely appeal from the May 10, 2017, (reference 01) decision that denied his request to backdate the claim for benefits prior to April 30, 2017. After due notice was issued, a hearing was held by telephone conference call on May 30, 2017. Claimant participated.

ISSUE:

Can the claimant's request to backdate his claim for benefits to April 23, 2017 be granted?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant works for an employer who in the past always filed their employees initial claim forms. The agency stopped allowing employer's to file initial claims for employees. The claimant has never had to file his own initial claim before. The employer posted information on filing claims for unemployment insurance benefits for employees on their bulletin board while the claimant was off work on vacation. The claimant did not receive the filing information from his employer until after the end of his first week of unemployment. The information was misleading for the claimant in that it told him if he had filed a weekly claim in the last 52 weeks he was not obligated to pre-register his claim. The claimant did not realize his claim had totally expired. The claimant has now received the handbook for employees that provides him with all needed information for him to accurately file his claim for benefits.

REASONING AND CONCLUSIONS OF LAW:

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

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

Incomplete or inaccurate information from the employer about how and when to file a claim is considered a good cause reason for having failed to file a claim during the first week of unemployment. Backdating is allowed to April 23, 2017. Since the claimant earned no wages during the week ending April 29, 2017 he is entitled to full unemployment insurance benefits for the one-week period ending April 29, 2017.

DECISION:

The May 10, 2017, (reference 01) decision is reversed. The claimant's request to backdate the claim is granted. Claimant shall be paid full unemployment insurance benefits for the week ending April 29, 2017.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/rvs