MARK W THOMPSON Claimant **IOWA WORKFORCE DEVELOPMENT DEPARTMENT**	**APPEAL 16A-UI-06524-JCT** **ADMINISTRATIVE LAW JUDGE DECISION** **OC: 09/13/15** **Claimant: Appellant (2)**

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

STATEMENT OF THE CASE:

The claimant filed an appeal from the May 31, 2016, (reference 01) unemployment insurance decision that denied the claimant's request to backdate his claim. After due notice was issued, a telephone hearing was held on June 29, 2016.   The claimant participated personally. Department exhibit D-1 was admitted into evidence. The administrative law judge took official notice of the administrative record, including fact-finding documents. Based on the evidence, the argument presented, 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 requests to backdate his claim be granted?

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant opened his claim September 13, 2015, in response to a one-week layoff at John Deere. The claimant then returned to work. The claimant was again laid off for a one week period between May 8 through 14, 2016. When the claimant attempted to file his weekly claim at the end of the week, he was unaware that he needed to establish an additional claim for benefits, but rather, was under the erroneous belief that the continued claim reporting procedure applied. The claimant tried to call the local Ottumwa IWD office on both Monday and Tuesday (May 16 and 17) but could not reach assistance. On Wednesday, the claimant visited the local office in Ottumwa and was told he would need to call customer service. He called the customer service line and was told to open his claim and wait a few days. Then the claimant learned he needed to make a request to backdate his claim. The claimant was unaware that due to a break in reporting that he could not follow the same procedure as he had for his continued weekly claims. The claimant seeks to backdate his claim to the week of May 8, 2016.

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.

The IWD Unemployment Insurance Benefits Handbook indicates a claim effective date is the Sunday of the week in which the application was filed. There is no instruction that a new, additional or reopened claim must be filed before Saturday of the week of separation or unemployment. In this case, the claimant was unaware that he needed to establish an *additional claim* for benefits, but rather, was under the erroneous belief that the continued claim reporting procedure applied. Under this belief, the claimant contacted Workforce Development after the deadline to report his employment status for the prior week. Upon learning of the issue,

the claimant contacted the Iowa Workforce Development Center so that he could establish an *additional claim* for benefits instead of just providing a weekly report *continuing* an existing claim. Since the claimant attempted to file the claim during the week he was unemployed, but was locked out of the online claim system, the delay in filing due to the unclear instructions is considered a good cause reason for having failed to file a claim during the first week of unemployment. The claimant's request to backdate his claim to May 8, 2016 is granted.

DECISION:

The May 31, 2016, (reference 01) decision is reversed. The claimant's request to backdate the claim to May 8, 2016 is granted. Benefits are allowed, provided he is otherwise eligible.

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Jennifer L. Beckman
Administrative Law Judge

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Decision Dated and Mailed

jlb/pjs