

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JUAN M FERNANDEZ
Claimant

APPEAL NO. 07A-UI-02955-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 03/19/06 R: 02
Claimant: Appellant (2)**

871 IAC 24.2(1)h - Backdating

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated March 20, 2007, reference 01, that denied the claimant's request to backdate his claim. A telephone hearing was held on April 9, 2006. Proper notice of the hearing was given to the claimant. The claimant participated in the hearing. Ike Roche interpreted for the hearing. Exhibit A was admitted into evidence at the hearing.

ISSUE:

When should the claimant's claim for unemployment insurance benefits be made effective?

FINDINGS OF FACT:

The claimant filed a new claim for unemployment insurance benefits with an effective date of March 19, 2006, due to a short-term layoff from his job at Allied Construction. He returned to work for Allied Construction from April 2006 to February 15, 2007, and was again placed on a short-term layoff.

When the claimant had not been called back to work by February 22, the claimant reported to the Workforce Development Center and was told that his claim had been filed, he did not have to file a weekly claim for that week but to be sure call in to make his weekly claim for the week ending March 3, 2007.

When the claimant had not received a payment for the week ending February 24, 2007, he contacted the Workforce Development Center and requested that the claim be backdated to February 18 and he be granted retroactive benefits for the week ending February 24.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is on what date should the claim for benefits be made effective.

871 IAC 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;

The claimant has established sufficient grounds to backdate his claim. The claim shall be backdated to February 18, and he is granted retroactive benefits for the week ending February 24.

DECISION:

The unemployment insurance decision dated March 20, 2007, reference 01, is reversed. The claimant's request to backdate the claim is granted.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/css