

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ANTHONY L DAVIS**  
Claimant

**APPEAL NO. 07A-UI-03160-HT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 02/25/07 R: 02  
Claimant: Appellant (2-R)**

871 IAC 24.2(1)a&h – Backdating

**STATEMENT OF THE CASE:**

Claimant filed an appeal from the March 28, 2007, reference 01, decision that denied the request to backdate his claim for benefits. After due notice was issued, a hearing was held on April 12, 2007. Claimant did participate.

**ISSUE:**

The issue is whether the claim may be backdated.

**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 February 25, 2007. His last day of work was January 19, 2007, and he attempted to file a claim on line January 22, 2007. His attempt to file a weekly claim was apparently unsuccessful but he did not contact his local office until February 22, 2007, when he finally determined he was not receiving weekly benefits.

He was out of town due to family illness from February 11 to 22, 2007, during which time he was not in touch with his personal situation. The problem could have been discovered earlier but for this absence.

**REASONING AND CONCLUSIONS OF LAW:**

871 IAC 24.2(1)a provides:

- a. Following separation from work, any individual, in order to establish a benefit year during which the individual may receive benefits because of unemployment shall report in person to the nearest workforce development center which takes claims and shall file an initial claim for benefits and register for work.

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;

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 the 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.

The claimant's unsuccessful attempt to file on line, and the fact the weekly calls did not inform him of any problem, is considered a good cause for having failed to file a claim during the first week of unemployment. Backdating is allowed to January 21, 2007.

The issue of whether the claimant was able and available for work for the majority of the two-week period from February 11 to 24, 2007, is remanded for determination.

**DECISION:**

The representative's decision of March 28, 2007, reference 01, is reversed. The claimant's request to backdate the claim is allowed.

The issue of whether the claimant was able and available for work from February 12 through 24, 2007, is remanded for determination.

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Bonny G. Hendricksmeier  
Administrative Law Judge

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Decision Dated and Mailed

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