

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JOHN W BACKES
Claimant

APPEAL 17A-UI-07822-CL-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

OC: 12/25/16
Claimant: Appellant (2)

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

STATEMENT OF THE CASE:

Claimant filed a timely appeal from the July 28, 2017, (reference 01) unemployment insurance decision that denied the request to backdate the additional claim for benefits prior to July 9, 2017. After due notice was issued, a hearing was scheduled to be held by telephone conference call on August 22, 2017. Claimant participated.

ISSUE:

May the additional claim be backdated prior to July 9, 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 December 25, 2016, and an additional claim date effective July 9, 2017, and desires to backdate the additional claim to July 2, 2017. Claimant was temporarily laid off during the one week ending July 8, 2017. He earned no wages or vacation or holiday pay that week.

Claimant attempted to file his continued weekly claim on Saturday, July 8, 2017, but was unable to do so because he did not reopen his claim first. Claimant was unaware he was required to reopen the claim prior to the close of business on Friday of the week he was first unemployed. On July 11, 2017, claimant came into his local office and was instructed to reopen his claim. Claimant reopened his claim and made a handwritten request for it to be backdated. The agency did not respond to the request and claimant made a second request to backdate the claim on July 25, 2017.

The IWD Unemployment Insurance Benefits Handbook in effect at the time claimant first filed his claim indicated a claim effective date is the Sunday of the week in which the application was filed. There was no instruction that a new, additional or reopened claim must be filed before Saturday of the week of separation or unemployment.

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 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) provide:

Procedures for workers desiring to file a claim for benefits for unemployment insurance.

(1) § 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 in effect at the time claimant first filed his claim indicated a claim effective date is the Sunday of the week in which the application was filed. There was no instruction that a new, additional or reopened claim must be filed before Saturday of the week of separation or unemployment. Since claimant attempted to file the additional claim on Saturday, the delay in filing in person at the local office on Tuesday, is considered a good cause reason for having failed to file a claim during the first week of unemployment. Backdating is allowed.

DECISION:

The July 28, 2017, (reference 01) unemployment insurance decision is reversed. The claimant's request to backdate the additional claim to July 2, 2017, is granted, as are retroactive benefits for the same time period.

Christine A. Louis
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Decision Dated and Mailed

cal/rvs