

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

JAMIE R BUFFINGTON
Claimant

APPEAL 17A-UI-00311-JCT

**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:

The claimant filed an appeal from the January 5, 2017, (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 January 31, 2017. The claimant participated personally. Department Exhibit D-1 and 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 has worked for McAninch for approximately 18 years. Each winter, he is temporarily laid off due to weather conditions. The claimant was laid off during the week of December 4-10, 2016, but did not establish a claim for benefits because he had earned wages for three days which exceeded his weekly benefit amount. During the week of December 11 through 17, 2016, the claimant successfully filed his claim and was paid benefits. The claimant was unaware that his 2015 claim was expired and attempted to file his weekly claim for the week of December 18 through 24, 2016. The claimant made three attempts to call IWD, speaking first to the Creston local office who advised they could not view his claim and then he called the customer service line. The claimant provided credible evidence that he was repeatedly told by representatives that his claim could not be viewed and to call back (Department Exhibit D-1). It was not until after multiple calls that on January 4, 2017, the claimant received assistance from an IWD representative in completing his claim.

The claimant seeks to backdate his claim to December 18, 2016 and retroactive benefits for the same period.

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 claimant is currently on a seasonal lay-off from his long term employer, McAninch. He worked three days during the week of December 4, 2016 before being laid off. In this case, the claimant filed his weekly claim during the first week he was fully unemployed (December 11 through 16, 2016). He was paid benefits for that week. The claimant then made a good faith effort to file the next week (December 18 through 24) his continued weekly claim, unaware that his benefit year had expired.

When he was unsuccessful, he called immediately after the holiday, and was told by multiple representatives that his claim could not be viewed and to call back, until the claimant finally received assistance on January 4, 2017. Whether the delay was due to technical error in the electronic system or incorrect IWD guidance, the administrative law judge is persuaded that the claimant has established good cause for the delay in filing his claim.

The claimant's request to backdate his December 18, 2016 is granted.

The administrative law judge would caution the claimant that because his claim is being backdated, his benefit year will now expire *December 17, 2017*.

DECISION:

The January 5, 2017, (reference 01) decision is reversed. The claimant's request to backdate the claim to December 18, 2016 is granted, as are the retroactive benefits for the same time period. Benefits are allowed, provided he is otherwise eligible.

Jennifer L. Beckman
Administrative Law Judge

Decision Dated and Mailed

jlb/rvs