

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

LUKE D DOSTAL
Claimant

APPEAL 17A-UI-00145-LJ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 12/18/16
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:

Claimant filed a timely appeal from the December 30, 2016, (reference 01) decision that denied the request to backdate the claim for benefits prior to December 18, 2016. After due notice was issued, a hearing was scheduled to be held by telephone conference call at 2:00 p.m. on Thursday, January 26, 2017. Claimant participated.

ISSUE:

May the claimant backdate the claim prior to December 18, 2016?

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 18, 2016, and desires to backdate the claim to December 11, 2016.

Claimant tried to file his claim during the week of December 11, 2016. He believed he had successfully filed the claim, but he did not write down a confirmation number. When he went to report his weekly claim on Saturday, he had no claim in the system. He called on Monday for assistance, and the person to whom he spoke was unable to find any record that he had filed the week before.

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), (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 a 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 *Unemployment Insurance Benefits Handbook*, provides in pertinent part at page 13-14:

CLAIM EFFECTIVE DATE

The effective date of all UI claims, regardless of filing method, will be the Sunday of the week in which the application was filed.

and

REACTIVATING A CLAIM

An individual can start and stop claiming weekly benefits as many times as necessary during the benefit year. This is called a break in reporting status. Any break in reporting requires the individual to file another initial claim application during the week they want to start collecting benefits again.

The *Unemployment Insurance Benefits Handbook*, provides in pertinent part at page 9:

FILING WEEKLY CLAIMS

To request UI benefit payments during weeks of unemployment, individuals must certify they:

- are currently unemployed or working reduced hours
- are able to work and available for work
- have not refused any job offers or referrals to a job
- are actively looking for work (unless waived)
- are reporting any pay or pension payment received

WHEN TO FILE

The current week is the week that just ended on Saturday. Individuals are strongly encouraged to file their weekly claims between the hours of 9:00 a.m. Saturday through 11:30 p.m. Sunday. Failing to do so can potentially delay benefits.

Claimant attempted to open his unemployment claim during the week of December 11, 2016. He did not realize that he had not successfully done this until the weekend, at which point it was too late to open a claim. Claimant now understands that if he has successfully opened a claim, he will receive a confirmation number. Claimant's error in this circumstance is understandable, particularly given that his employer previously opened his claim for him. Backdating is allowed.

DECISION:

The December 30, 2016, (reference 01) decision is reversed. The claimant's request to backdate the claim to December 11, 2016, is granted, as are the retroactive benefits for the same time period.

Elizabeth A. Johnson
Administrative Law Judge

Decision Dated and Mailed

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