

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JEFF M MEIBURG
Claimant

APPEAL NO. 14A-UI-02910-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TEAM STAFFING SOLUTIONS INC
Employer

OC: 01/19/14
Claimant: Appellant (3)

871 IAC 24.1(113)a – Layoff
871 IAC 24.2(1)(h)(1), (2), & (3) – Procedure for Filing Weekly Claims

STATEMENT OF THE CASE:

Jeff Meiburg filed a timely appeal from a representative's decision dated March 7, 2014, reference 01, which denied unemployment insurance benefits as of January 19, 2014 finding the claimant was still employed at the same hours and wages as in his original contract of hire and, therefore, could not be considered to be partially unemployed. A telephone hearing was held on April 30, 2014. Claimant participated personally. The employer participated by Ms. Sara Fiedler, Human Resource Generalist. The parties waived notice on the issue of whether the claimant had been laid off work.

ISSUE:

The issue in this matter is whether the claimant had been laid off work and if so, whether the claimant properly filed a claim for unemployment insurance benefits for the time he was laid off work.

FINDINGS OF FACT:

Having considered the evidence in the record, the administrative law judge finds: Jeff Meiburg began employment with Team Staffing Solutions, Inc. on November 11, 2013. Mr. Meiburg was assigned only to work at the Hon Company as a full-time production worker and was paid at the rate of \$10.00 per hour. During the week of January 26 through February 1, 2014, work was not available to Mr. Meiburg through Team Staffing Solutions at the Hon Company. Employees had been informed the previous week of the temporary one-week layoff. In an effort to determine whether he should file a claim for unemployment insurance benefits and whether there was any additional work available for the week of proposed layoff, Mr. Meiburg contacted Team Staffing Solutions. In response to his inquiry, Team Staffing Solutions offered the claimant a one-week assignment, but the claimant was not available to accept the assignment because he did not have transportation to the location.

During the week beginning January 19 through January 25 Mr. Meiburg opened his claim for benefits and attempted to claim benefits for the following week of layoff, January 26 through February 1, 2014.

Because Mr. Meiburg did not file his claim by Sunday of the week subsequent to his layoff from work but filed in advance of the layoff, he did not file his claim in accordance with the rules prescribed by Iowa Workforce Development. Because he had filed his claim before being laid off and not during the current calendar week subsequent to his layoff, his claim for benefits for the week of January 26 to February 1 was not properly filed and it appears, his claim was interpreted as a request to receive partial unemployment insurance benefits while still employed.

REASONING AND CONCLUSIONS OF LAW:

The question before the administrative law judge is whether the evidence in the record establishes that Mr. Meiburg is qualified to receive unemployment insurance benefits for the week of January 26 through February 1, 2014. It does not.

Iowa Admin. Code r. 871-24.1(113)a provides:

Separations. All terminations of employment, generally classifiable as layoffs, quits, discharges, or other separations.

a. Layoffs. A layoff is a suspension from pay status (lasting or expected to last more than seven consecutive calendar days without pay) initiated by the employer without prejudice to the worker for such reasons as: lack of orders, model changeover, termination of seasonal or temporary employment, inventory-taking, introduction of laborsaving devices, plant breakdown, shortage of materials; including temporarily furloughed employees and employees placed on unpaid vacations.

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 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.

Although sympathetic to Mr. Meiburg's situation, the administrative law judge concludes based upon the evidence in the record that although the claimant had been informed that there would be no work at his regular job location for the period of January 26 through February 1, 2014, Mr. Meiburg did not file a claim for benefits for that week in accordance with the rules prescribed by Iowa Workforce Development. Mr. Meiburg filed his claim prior to the effective date of his layoff and, therefore, was not eligible to receive unemployment insurance benefits effective January 19, 2014 and the claimant subsequently has not attempted to backdate his claim or presented sufficient grounds to justify or excuse his failure to file his claim during the current week subsequent to his temporary separation from work.

Because the claimant has not properly filed a claim for benefits and has not attempted to backdate his claim or provide a sufficient reason for doing so, the administrative law judge will not make a determination as to whether the claimant was offered alternative employment during the week in question and if so, whether the claimant had good cause to refuse it.

DECISION:

The representative's decision dated March 7, 2014, reference 01, is affirmed as modified. The portion of the determination denying benefits as of January 19, 2014 is affirmed. The portion of the determination finding the claimant was not eligible because he was still employed at the same hours and wages is modified to find the claimant did not properly file a claim for benefits for the current calendar week subsequent to his separation from work. The decision is affirmed as modified.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs