

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

EDWARD J PLANSKY
Claimant

APPEAL NO. 09A-UI-11608-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**Original Claim: 04/12/09
Claimant: Appellant (1)**

871 IAC 24.2(1)h - Backdating

STATEMENT OF THE CASE:

Edward Plansky appealed an unemployment insurance decision dated August 3, 2009, reference 02, that denied the claimant's request to backdate his claim. A telephone hearing was held on August 27, 2009, with Mr. Plansky participating in the hearing.

ISSUE:

When should Edward Plansky's claim for unemployment insurance benefits be made effective?

FINDINGS OF FACT:

Edward Plansky worked for BE & K Construction Company until April 3, 2009. The claimant filed a new claim for unemployment insurance benefits on April 16, 2009. The claimant did not file the claim during the week of April 5, 2009, because he was busy interviewing for other jobs and was focused on finding work. Plansky requested that the claim be backdated to be effective April 5, 2009.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is on what date should the claim for benefits be made effective.

871 IAC 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;

The reason Plansky failed to file an earlier unemployment insurance claim was because he was busy interviewing for other jobs and was focused on finding work. He has not shown he received incorrect advice by an agency employee, his failure to file an earlier claim was due to the employer's failure to comply with the law, or the employer prevented him from promptly filing a claim. While Plansky's efforts to secure employment during the week of April 5, 2009, are commendable, he has not established sufficient grounds to justify or excuse the delay in filing his claim under the law. The claim for unemployment insurance benefits is effective April 12, 2009.

DECISION:

The unemployment insurance decision dated August 3, 2009, reference 02, is affirmed. The request to backdate the claim is denied.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/kjw