

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KYLE M WALKER
Claimant

APPEAL NO. 14A-UI-00678-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 12/29/13
Claimant: Appellant (1)**

871 IAC 24.2(1)(a) & (h)(1) & (2) – Backdated Claim

STATEMENT OF THE CASE:

Kyle Walker filed a timely appeal from the January 8, 2014, reference 01, decision that denied his request to backdate his claim to a date earlier than December 29, 2013. After due notice was issued, a hearing was held on February 12, 2014. Mr. Walker participated. Exhibit A was received into evidence. The administrative law judge took official notice of the Agency's administrative record (DBRO) concerning the effective date assigned to the claim, last day of employment prior to the claim, and (KCCO) the claimant's use of the agency's website to make a weekly claim for benefits.

ISSUE:

Whether there is good cause to backdate Mr. Walker's claim to a date prior to December 29, 2013.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Kyle Walker was laid off from his employment with Dave's Marine and Sports effective Friday, December 20, 2013. On Saturday, January 4, 2014, Mr. Walker used the Workforce Development website to apply for unemployment insurance benefits. Workforce Development deemed the claim effective December 29, 2013, the Sunday that started the week during which Mr. Walker applied for benefits. Mr. Walker elected to delay his application for benefits until after the holidays. Neither Workforce Development nor the employer did anything to contribute to the delayed application for benefits.

REASONING AND CONCLUSIONS OF LAW:

871 IAC 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.

The evidence in the record establishes that the delay in the application for benefits until January 4, 2014 was wholly attributable to Mr. Walker's decision to delay taking action until that date. Workforce Development assigned the correct effective date to the claim. There is not good cause to backdate the claim to a date prior to December 29, 2013.

DECISION:

The Agency representative's January 8, 2014, reference 01, decision is affirmed. There is not good cause to backdate the claim to a date prior to December 29, 2013. The claimant's request to backdate the claim is denied.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/pjs