

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

NICK WIRT
Claimant

APPEAL NO: 17A-UI-00083-JE-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 10/30/16
Claimant: Appellant (2)

871 IAC 24.2(1)H(1)&(2) – Backdating Claim

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the December 29, 2016, reference 01, decision that denied his request to backdate his claim. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on January 26, 2017. The claimant participated in the hearing.

ISSUE:

The issue is whether the claimant's unemployment insurance benefits claim can be backdated.

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 October 30, 2016. He reopened his claim with an additional date of December 25, 2016. The claimant was laid off from Fye Escalating December 19, 2016.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant's request to backdate the claim is allowed.

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 attempted to reopen his claim by filing his weekly claim December 24, 2016, but the system would not allow him to do so as there was a break in his claim. He was directed to contact the Department Tuesday, December 27, 2016, and did so at which time he was able to file and additional claim. Because there was a break in the claimant's claim and he did contact the Department on the first available date after being instructed to do so, the administrative law judge finds the claimant has provided a good cause reason for having failed to file a claim during the first week of unemployment. Therefore, backdating is allowed.

DECISION:

The December 29, 2016, reference 01, decision is reversed. The claimant's request to backdate the claim is allowed.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/rvs