

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DUSTIN L CLARK
Claimant

APPEAL NO: 10A-UI-02822-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 01/10/10
Claimant: Appellant (1)**

871 IAC 24.2(1)a & h(1) & (2) - Backdating

STATEMENT OF THE CASE:

Dustin L. Clark (claimant) appealed a representative's February 10, 2010 decision (reference 01) that denied the claimant's request to backdate the claim prior to January 10, 2010. A hearing notice was mailed to the claimant's last-known address of record for a telephone hearing to be held on April 10, 2010. The claimant failed to respond to the hearing notice and provide a telephone number at which he could be reached for the hearing and did not participate in the hearing. Based on a review of the information in the administrative file and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Should the claimant's request to backdate his claim be granted?

FINDINGS OF FACT:

The claimant has a prior unemployment insurance benefit year established effective January 4, 2009, expiring January 3, 2010. His weekly benefit amount was calculated to be \$346.00. He initially drew benefits in that claim year for 11 weeks, through the week ending March 14, 2009. He had most recently reopened the claim with an additional claim effective July 5, 2009, when he drew benefits for an additional two weeks. The total regular benefits he had received during that claim year were \$4,498.00; as of the week ending July 18, 2009, he had a remaining balance available to him of \$346.17, essentially one week's worth.

During the week of January 24, 2010 the claimant contacted the Agency about reestablishing a claim for unemployment insurance benefits. He then learned that he actually could have received benefits for the remaining week on his 2009 claim year, had he reopened his claim before the expiration of the claim year. The Agency representative applied standard procedures and granted a backdating of the new 2010 claim to be effective the week beginning January 10, 2010, rather than the week beginning January 24, 2010. However, backdating so as to allow collection of the remaining week under the old 2009 claim year was denied. The claimant's explanation for failing to reopen his 2009 claim year before its expiration was that he had

mistakenly believed he had no balance remaining available to him on his 2009 claim year, and did not learn otherwise until he contacted the Agency office the week of January 24, 2010.

REASONING AND CONCLUSIONS OF LAW:

Agency rule 871 IAC 24.2(1)h provides that claims for unemployment insurance benefits are ordinarily effective on the Sunday of the calendar week in which the individual files the initial claim. For good cause, a claim may be backdated. The reason the claimant failed to file an earlier unemployment insurance claim was because of the mistaken belief he had no benefits remaining available to him in the 2009 claim year. Having a mistaken belief is not considered a good cause reason for having failed to timely file or reopen a claim. The claimant has not shown he received incorrect advice by an agency employee, that his failure to file an earlier claim was due to the employer's failure to comply with the law, or the employer prevented the claimant from promptly filing a claim. The claimant has failed to establish sufficient grounds to justify or excuse the delay in filing his claim. Backdating before January 10, 2010 is denied.

DECISION:

The representative's February 10, 2010 decision (reference 01) is affirmed. The claimant's request to backdate his claim prior to January 10, 2010 is denied.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/pjs