

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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**JERRY L POLSON JR**  
Claimant

**APPEAL 16A-UI-08740-JCT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 07/24/16  
Claimant: Appellant (1)**

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Iowa Code § 96.6(1) – Filing Claims  
Iowa Admin. Code r. 871-24.2(1)h(1) & (2) – Backdating

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the August 4, 2016, (reference 03) unemployment insurance decision that denied the claimant's request to backdate his claim. After due notice was issued, a telephone hearing was held on August 29, 2016. The claimant participated personally. Department exhibit D-1 was admitted into evidence. The administrative law judge took official notice of the administrative record, including fact-finding documents. Based on the evidence, the argument presented, 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:**

Having reviewed all of the evidence in the record, the administrative law judge finds:  
The claimant opened his claim effective July 24, 2016, in response to separation from Remedy Staffing. The claimant was informed of his separation on July 11, 2016 by the employer. The claimant did not contact IWD, visit a local office or attempt to open his claim until he visited the Des Moines IWD local office during the week of July 24, 2016. The reason the claimant did not file his claim between July 11 and 24 is because he was waiting for the employer to call and offer him new work. The claimant seeks to backdate the claim to July 10, 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 denied.

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.

In this case, the claimant was separated from Remedy Staffing effective July 11, 2016, and did not attempt to establish his claim for benefits until he visited the local IWD office in Des Moines during the week of July 24, 2016. The claimant 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 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. The claim for unemployment insurance benefits is effective July 24, 2016.

**DECISION:**

The unemployment insurance decision dated August 4, 2016, reference 03, is affirmed. The claimant's request to backdate the claim is denied.

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Jennifer L. Beckman  
Administrative Law Judge

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Decision Dated and Mailed

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