

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

JESSICA R HERKE
Claimant

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

APPEAL 16A-UI-12540-JCT
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 01/03/16
Claimant: Appellant (2)

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 November 16, 2016, (reference 03) unemployment insurance decision that denied the claimant's request to backdate her claim. The claimant was properly notified about the hearing. A telephone hearing was held on December 12, 2016. The claimant participated personally. Claimant exhibit A was admitted. The administrative law judge took official notice of the administrative records including the fact-finding documents. Based on the evidence, the arguments 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 requests to backdate her claim be granted?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant is employed at Polaris. She established a claim for unemployment insurance benefits with an effective date of January 3, 2016, in response to a temporary layoff. The claimant returned to work and again for a temporary period was laid off in July 2016. The claimant went at that time to make her weekly claim, unaware that she had to also reopen her claim prior to the end of the week, since she had a break in reporting. The claimant was unsuccessful at that time and called the Spencer IWD office, who explained she could not only file a weekly continued claim but would be required to reopen the claim as well. The representative did not advise the claimant when she had to submit the reopening claim, and that it could not wait until the same time she filed her continued weekly claim. Consequently, the claimant was laid off for work, beginning November 6, 2016, and at the end of the week, she attempted to reopen her claim and file her weekly continued claim. She was unsuccessful and received a message, prompting her to call IWD. When the claimant called the Spencer IWD office on November 14, 2016, she learned she had missed the cut off time to file the reopened claim. The claimant seeks to backdate her claim to the week of November 6, 2016.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes the claimant's request to backdate the claim is granted.

Iowa Code § 96.6-1 provides:

1. Filing. Claims for benefits shall be made in accordance with such regulations as the department may prescribe.

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 October 2016, *Unemployment Insurance Benefits Handbook*, provides in pertinent part at pages 13 and 14:

CLAIM EFFECTIVE DATE

The effective date of all UI claims, regardless of filing method, will be the Sunday of the week in which the application was filed.

and

REACTIVATING A CLAIM

An individual can start and stop claiming weekly benefits as many times as necessary during the benefit year. This is called a break in reporting status. Any break in reporting requires the individual to file another initial claim application during the week he/she wants to start collecting benefits again. Any employment during the break must be reported.

The October 2016, *Unemployment Insurance Benefits Handbook*, provides in pertinent part at pages 19 and 20:

Filing Weekly Claims

How to File

After you file your initial claim, file weekly claims online at iowaworkforcedevelopment.gov for every week you are unemployed or your hours are reduced. You must file a weekly claim for any week that you want payment even if your eligibility is being decided or you have an appeal pending.

To request UI benefit payments during weeks of unemployment, individuals must certify they:

- **are currently unemployed or working reduced hours**
- **are able to work and available for work**
- **have not refused any job offers or referrals to a job**
- **are actively looking for work (unless waived)**
- **are reporting any pay or pension payment**

When to File

The current week is the week that just ended on Saturday. Individuals are strongly encouraged to file their weekly claims between the hours of 9:00 am Saturday through 11:30 pm Sunday. Failing to do so can potentially delay benefits.

IMPORTANT: You will receive confirmation that the claim has been processed successfully. If you don't receive confirmation, the process must be repeated until the claim has been successfully submitted.

Note that the instruction to file weekly continued claims appears six pages later in the Handbook than the initial and reactivation claim filing instructions, *after* information about the fact-finding interview and appeal process. This chronology is reasonably confusing. The claimant further relied upon incomplete advice furnished by an IWD representative when she made a good faith attempt to reopen and file her weekly claim during the first week for which she was unemployed. The claimant then made a timely follow up call to IWD on Monday, November 14, 2016 when the claimant was not completed. Since the claimant attempted to file the additional claim on the weekend but was locked out of the online claim system, the delay in filing within the next business week is considered a good cause reason for having failed to file a claim during the first week of unemployment. Backdating is allowed.

DECISION:

The November 16, 2016, (reference 03) unemployment insurance decision is reversed. The claimant's request to backdate the claim to November 6, 2016, is granted as are retroactive benefits for the same time period.

Jennifer L. Beckman
Administrative Law Judge

Decision Dated and Mailed

jlb/rvs