

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

NICK L RUSSELL
Claimant

APPEAL 14A-UI-11680-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 08/03/14
Claimant: Appellant (2)**

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

STATEMENT OF THE CASE:

Claimant filed a timely appeal from the November 6, 2014 (reference 01) decision that denied the request to backdate the claim for benefits prior to November 2, 2014. After due notice was issued, a hearing was scheduled to be held by telephone conference call on December 3, 2014. The claimant consented to holding the hearing on November 24, 2014. Claimant participated.

ISSUE:

The issue is whether claimant can backdate the claim prior to November 2, 2014.

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 August 3, 2014. He filed for and received two weeks of benefits through August 16, 2014. He returned to work until being laid off due to lack of work for a one-week period from October 27 through October 31. He used his mother's computer to file his claim during the week and believed it had gone through. When he attempted to file his weekly continuing claim during the weekend, he learned that a computer glitch had not allowed his claim to be processed. Claimant did not delay filing the claim, he was prevented from filing due to a computer error.

REASONING AND CONCLUSIONS OF LAW:

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

Iowa Admin. Code r. 871-24.2(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 claimant did not delay in filing his claim; a computer error prevented him from completing his claim. Thus, the claimant's request for backdating his claim to October 26, 2014 is granted. Claimant shall be paid one week of benefits for the week ending November 1, 2014.

DECISION:

The November 6, 2014 (reference 01) decision is reversed. The claimant's request to backdate the claim is granted. The claim shall be backdated to October 26, 2014 and one week of benefits for the week ending November 1, 2014 shall be paid.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/pjs