

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ANTHONY J DUFAUCHARD
Claimant

APPEAL NO: 13A-UI-12157-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 09/29/13
Claimant: Appellant (1)

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

STATEMENT OF THE CASE:

Anthony J. Dufauchard (claimant) appealed a representative's October 22, 2013 decision (reference 05) that denied the claimant's request to backdate the claim to September 22, 2013. A hearing notice was mailed to the claimant's last-known address of record for a telephone hearing to be held on November 21, 2013. A review of the Appeals Section's conference call system indicates that 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 available information 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 back date his claim be granted?

FINDINGS OF FACT:

The claimant had an at least temporary separation from employment on or about September 23, 2013. The claimant believed he was going to be called back to work later in the week, but then he was not. He then made his claim on October 3, during the benefit week beginning September 29, 2013.

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 he thought the employer was going to call him back to work, but that did not happen. This is not considered a good cause reason for having failed to file a claim during the first week of unemployment; he could have filed his claim by the end of that week when it had become apparent that he was not going to be called back to

work, but he did not. He 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. He has failed to establish sufficient grounds to justify or excuse the delay in filing his claim. Backdating is denied.

DECISION:

The representative's October 22, 2013 decision (reference 05) is affirmed. The claimant's request to backdate his claim is denied.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/pjs