

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ROSS A FIRST
Claimant

APPEAL NO. 14A-UI-03600-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 03/16/14
Claimant: Appellant (1)

871 IAC 24.2(1)h - Backdating
Section 96.6-2 - Timeliness of Appeal

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated March 20, 2014, reference 02, that denied his request to backdate his claim. A telephone hearing was held on April 24, 2014. The parties were properly notified about the hearing. The claimant participated in the hearing.

ISSUES:

Was the appeal in this case filed timely?
Should the claim for benefits be backdated?

FINDINGS OF FACT:

The claimant was laid off by his employer for the week of March 9 to 15, 2014. He believed he had filed a new claim for unemployment online during the week of March 9, but when he checked back on March 19, 2014, he found out the claim was not filed. He contacted the Agency to file the claim and request the claim be backdated to March 9.

An unemployment insurance decision was mailed to the claimant's last-known address of record on March 20, 2014. The decision denied the request to backdate the claim and stated the decision was final unless a written appeal was postmarked or received by the Appeals Bureau by March 30, 2014.

The claimant received the decision around April 2, 2014. He filed a written appeal on April 4, 2014. The claimant delayed in filing his appeal because he had received the appeal late and he contacted the Cedar Rapids Workforce Center to get advice on what to do.

REASONING AND CONCLUSIONS OF LAW:

The first issue in this case is whether the claimant filed a timely appeal.

The law states that an unemployment insurance decision is final unless a party appeals the decision within ten days after the decision was mailed to the party's last known address. Iowa Code § 96.6-2.

The next question is whether the claimant had a reasonable opportunity to file an appeal in a timely fashion. Hendren v. IESC, 217 N.W.2d 255 (Iowa 1974); Smith v. IESC, 212 N.W.2d 471, 472 (Iowa 1973). The claimant filed his appeal late because he did not receive the decision until after appeal deadline. He promptly filed the appeal after he received the decision. The appeal is deemed timely.

The next issue in this case is on what date the claim for benefits should be made effective.

The unemployment insurance rules state when claims are made effective in 871 IAC 24.2(1)h(1) and (2).

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.

The reason the claimant failed to file an earlier unemployment insurance claim was because he filed online but did not complete the application properly. 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 request to backdate the claim to March 9, 2014, is denied.

DECISION:

The unemployment insurance decision dated March 20, 2014, reference 02, is affirmed. The claimant's request to backdate the claim is denied.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/pjs