

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

HUNTER S BELL
Claimant

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

APPEAL 17A-UI-00454-JCT
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 01/01/17
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 January 11, 2017, (reference 01) unemployment insurance decision that denied the claimant's request to backdate his claim. After due notice was issued, a telephone hearing was held on February 6, 2017. The claimant participated personally. Shane Northrup, co-worker, attended as an observer only. Department Exhibit D-1 and 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 requests to backdate his claim be granted?

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant works for Midland Concrete Services. The claimant was laid off of work temporarily for December 25 until December 31, 2016. Prior to layoff, the claimant's immediate supervisor told the claimant he would be paid by the employer during the layoff. Because the claimant expected to be paid by the employer, he did not file his claim for benefits during the week he was unemployed. The claimant returned to work January 2, 2017, and learned the employer had erred. Upon notification that he would not be paid, and encouragement from human resources, the claimant filed a new claim for unemployment insurance benefits during the week of January 1, 2017. The claimant requested that the claim be backdated to be effective December 25, 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 granted.

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 temporarily laid off for a one week period of December 25, 2016 through December 31, 2016. Prior to layoff, the claimant's immediate supervisor, told him that he would be paid by the employer for the layoff, and so the claimant did not attempt to establish his claim for benefits, believing he would be paid by the employer directly. Upon returning to

work, during the week of January 2, 2017, the claimant learned he would not be paid and the employer had informed him incorrectly. He then attempted to file his claim during that week, with an effective date of January 1, 2017.

Based on the evidence presented, the claimant has shown his failure to file an earlier claim was due to incorrect information, or the employer prevented the claimant from promptly filing a claim. The claimant has established sufficient grounds to justify or excuse the delay in filing his claim. The claim for unemployment insurance benefits is effective December 25, 2016.

DECISION:

The January 11, 2017, (reference 01) decision is reversed. The claimant's request to backdate the claim to December 25, 2016 is granted, as are retroactive benefits for that period. Benefits are allowed, provided he is otherwise eligible.

Jennifer L. Beckman
Administrative Law Judge

Decision Dated and Mailed

jlb/rvs