

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

DONALD T KEMP
Claimant

BERTCH CABINET MFG INC
Employer

APPEAL 17A-UI-07499-CL-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 01/01/17
Claimant: Appellant (1)**

Iowa Code § 96.6(1) – Filing Claims
Iowa Admin. Code r. 871-24.2(1)a & h(1) & (2) – Backdating

STATEMENT OF THE CASE:

Claimant filed a timely appeal from the July 17, 2017, (reference 02) unemployment insurance decision that denied the request to backdate the additional claim for benefits prior to July 9, 2017. After due notice was issued, a hearing was scheduled to be held by telephone conference call on August 10, 2017. Claimant participated. Employer participated through human resource director, Mitzi Tann.

ISSUE:

May the additional claim be backdated prior to July 9, 2017?

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 January 1, 2017, and an additional claim date effective July 9, 2017, and desires to backdate the additional claim to July 2, 2017. Claimant was laid off during the one week ending July 8, 2017. Claimant earned no wages or holiday or vacation pay that week. Claimant attempted to file his initial claim on Sunday, July 9, 2017, but was unable to do so as he did not reactive his claim before the close of business on Friday during the week he was laid off. Claimant contacted his local office the next week for assistance and requested that his claim be backdated.

Claimant ran into the identical issue when filing his claim in January 2017. Claimant had an unemployment appeal hearing regarding the issue. The decision explicitly explained that claimant was required to file the initial claim for benefits before the close of business on Friday during the first week of unemployment. Therefore, claimant was either aware or should have been aware he was required to file his initial claim by the close of business on Friday during the week he was laid off.

REASONING AND CONCLUSIONS OF LAW:

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

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) § 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, claimant was aware he was required to file his initial claim for benefits before the close of business on Friday, during the week he was laid off as he experienced the identical issue in January 2017, when filing his claim. Claimant has not established a good cause reason for failing to file his initial claim before the close of business on Friday during the week he was laid off. Therefore, his request to backdate the claim must be denied.

DECISION:

The July 17, 2017, (reference 02) unemployment insurance decision is affirmed. The claimant's request to backdate the additional claim to July 2, 2017, is denied, as are retroactive benefits for the same time period.

Christine A. Louis
Administrative Law Judge
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Decision Dated and Mailed

cal/scn