

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

COREY A MEYER
Claimant

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

APPEAL NO: 09A-UI-10064-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 05/24/09
Claimant: Appellant (4)

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

STATEMENT OF THE CASE:

The claimant appealed a department decision dated July 10, 2009, reference 04, that denied his request to backdate his claim prior to May 24, 2009. A telephone hearing was held on July 29, 2009. The claimant participated.

ISSUE:

The issue is whether the claimant had a sufficient ground to justify or excuse the delay in the filing of his claim.

FINDINGS OF FACT:

The administrative law judge having heard the claimant's testimony and having considered the evidence in the record, finds: The claimant filed an unemployment claim effective May 24, 2009. The claimant is requesting to backdate his claim to May 17. Although the claimant was unemployed the week ending May 23, he had recently interviewed with a prospective employer, and he delayed the filing of his claim while he waited to hear from the employer whether he would be hired that week.

REASONING AND CONCLUSIONS OF LAW:

871 IAC 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 administrative law judge concludes that the claimant established a justifiable cause for the delay in filing a claim for the week ending May 23, 2009, and his request to backdate the claim to May 17, is approved. The claimant delayed his claim one week, because he believed he may become employed. That is a good cause for the filing of the claim.

DECISION:

The department decision dated July 10, 2009, reference 04 is modified. The claimant may backdate his claim for benefits to May 17, 2009. Benefits are allowed the week ending May 23, 2009, provided the claimant is otherwise eligible.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

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