

IOWA WORKFORCE DEVELOPMENT  
Unemployment Insurance Appeals Section  
1000 East Grand—Des Moines, Iowa 50319  
DECISION OF THE ADMINISTRATIVE LAW JUDGE  
68-0157 (7-97) – 3091078 - EI

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IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT

Appeal Number: 04A-UI-08889 -SWT  
OC: 11/09/04 R: 01  
Claimant: Appellant (1)

**This Decision Shall Become Final**, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4<sup>th</sup> Floor—Lucas Building, Des Moines, Iowa 50319.**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

871 IAC 24.2(1)h - Backdating

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated August 12, 2004, reference 01, that denied the claimant's request to backdate her claim. A telephone hearing was held on September 14, 2004. Proper notice of the hearing was given to the claimant. The claimant participated in the hearing.

FINDINGS OF FACT:

The claimant filed a new claim for unemployment insurance benefits during the week of November 9, 2003, after being laid off temporarily from her employment with CDS, Inc. She was informed that her claim would be made effective the Sunday preceding the week in which

her application was filed, and she was required to reopen her claim if she stopped filing claims for one or more weeks.

The claimant returned to work for CDS, Inc and she stopped filing claims. She was laid off from work again during the week of August 1, 2004. She did not reopen her claim during that week because she forgot that it was necessary to do so.

The claimant requested that the claim be backdated to be effective August 1, 2004.

#### REASONING AND CONCLUSIONS OF LAW:

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

871 IAC 24.2(1)h(1), (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;

The reason the claimant failed to file an earlier unemployment insurance claim was because forgot that it was necessary. The claimant has not shown she received incorrect advice by an agency employee, her 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 her claim. The claim for unemployment insurance benefits is effective August 8, 2004.

DECISION:

The unemployment insurance decision dated August 12, 2004, reference 01, is affirmed. The claimant's request to backdate the claim is denied.

saw/pjs