

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

BRYAN J RICHARDS
Claimant

APPEAL 16A-UI-12894-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 12/20/15
Claimant: Appellant (2)**

871 IAC 24.2(1)h(1) & (2) – Backdating

STATEMENT OF THE CASE:

Claimant filed a timely appeal from the November 30, 2016, (reference 02) decision that denied the request to backdate the claim for benefits prior to November 27, 2016. After due notice was issued, a hearing was scheduled to be held by telephone conference call on December 21, 2016. Claimant's appeal letter was sufficient to resolve the issue and no hearing was held.

ISSUE:

Can the claimant's claim for unemployment insurance benefits be backdated prior to November 27, 2016?

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 December 20, 2016 and an additional date of November 27, 2016 and desires to backdate the additional claim date to November 20, 2016. The claimant tried to call in his claim beginning on November 21, and November 22 but kept getting a recorded message. The claimant did not work at all the week due to the Thanksgiving Holiday. He was not able to reach anyone in customer service for assistance until the following Monday, November 28. The only reason the claimant was not able to file his claim during the first week of his unemployment was due to a system malfunction.

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.

Inability to file an electronic claim due to the system being inoperable is considered a good cause reason for the delay in filing the claim. The claimant's earned no wages during the week ending November 26, 2016. His additional claim date shall be backdated to November 20, 2016 and he shall be paid full unemployment insurance benefits for the week ending November 26, 2016.

DECISION:

The November 30, 2016, (reference 02) decision is reversed. The claimant's request to backdate the claim is granted. Claimant's additional date shall be backdated to November 20, 2016 and he shall be paid full unemployment insurance benefits for the week ending November 26, 2016.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/rvs