

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

RICHARD L WITKOWSKI
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IOWA WORKFORCE
DEVELOPMENT DEPARTMENT

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Appeal Number: 06A-UI-06421-DWT
OC: 08/07/05 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, 4th 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.

(Administrative Law Judge)

(Decision Dated & Mailed)

871 IAC 24.2(1)g - Retroactive Benefits

STATEMENT OF THE CASE:

Richard L. Witkowski (claimant) appealed a representative's June 16, 2006 decision (reference 10) that denied his request for retroactive benefits from October 16, 2005, through March 4, 2006. After a hearing notice was mailed to the claimant's last-known address of record, a telephone hearing was held on July 12, 2006. The claimant participated in the hearing with his attorney, Paul Deck. During the hearing, Claimant's Exhibits A, B and C were offered and admitted as evidence. Based on the evidence, the arguments of the parties, 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 request for retroactive benefits for the weeks ending October 22, 2005, through March 4, 2006 be granted?

FINDINGS OF FACT:

The claimant established a claim for unemployment insurance benefits during the week of August 7, 2006. The claimant filed weekly claims for the weeks ending August 13 through October 15, 2005. (Claimant Exhibit B.)

Initially, the claimant was held qualified to receive unemployment insurance benefits. The claimant's former employer appealed that decision. Based on evidence presented during a September 22, 2005, a decision was issued on October 3 holding the claimant was not qualified to receive unemployment insurance benefits. The claimant appealed this decision to the Employment Appeal Board. After the Employment Appeal Board affirmed the decision, the claimant and his attorney appealed the decision to District Court on December 8, 2005.

On April 19, 2006 a District Court Judge reversed the previous decisions and held the claimant was qualified to receive benefits as of August 5, 2005. After this decision was issued, the claimant made a request for retroactive benefits for the weeks ending October 22, 2005, through March 4, 2006. (Claimant Exhibit C.)

The claimant did not file any weekly claims after October 15, 2005. Even though the claimant had not filed any weekly claims, he kept looking for work. The claimant made a minimum of two in-person job contacts from October 16 through March 4, 2006. (Claimant Exhibit A.) As a result of the claimant's work search efforts, he became reemployed in early March 2006.

After the claimant received the October 3 decision, he filed weekly claims until October 15, 2006. The claimant did not know or understand he was required to call in his weekly claims while he was appealing. The claimant did not contact his local Workforce office to find out what he should do about filing weekly claims while he was in the appeal process.

REASONING AND CONCLUSIONS OF LAW:

When a claimant submits a claim by voice mail response, the claimant must call in on a weekly basis not earlier than noon of the Saturday of the weekly reporting period and, unless reasonable cause can be shown for the delay, not later than close of business on the Friday following the weekly reporting period. 871 IAC 24.2(1) g. (Emphasis supplied.)

Although the claimant indicated he did not understand he had to file weekly claims when he appealed a decision to the Employment Appeal Board and then to district court, he did not contact his local Workforce office to get an answer to this question. Even though the claimant made a minimum of two weekly job contacts during the weeks in question, he failed to alert the Department that he was continuing his claim for benefits. It was not until after the district court awarded the claimant benefits in April 2006 that he made any inquiry about retroactive benefits. Under 871 IAC 24.2(1) g – there must be a reasonable delay. The claimant's delay in requesting benefits in April for the weeks ending October 22, 2005 through March 4, 2006, is not reasonable.

871 IAC 24.3(k) does not apply in the claimant's situation because he was not disqualified from receiving benefits as a result of failing to report. If, however, this regulation applies in the claimant's case, the claimant has not established any extraordinary circumstances. There was nothing preventing the claimant from filing weekly claims in a timely manner between October 22, 2005, and March 4, 2006. Ignorance of the law or a regulation does not establish extraordinary circumstances, especially when the claimant does not contact his local Workforce office to find out what he needs to do when he was in the process of appealing a decision. The claimant's request for retroactive benefits is denied.

DECISION:

The representative's June 16, 2006 decision (reference 10) is affirmed. The claimant's April 2006 request for retroactive benefits for the weeks ending October 22, 2005, through March 4, 2006, is denied.

dlw/pjs