

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CORALITA J SHUMAKER
Claimant

APPEAL NO. 08A-UI-08054-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 08/03/08 R: 04
Claimant: Appellant (1)**

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

STATEMENT OF THE CASE:

Coralita Shumaker filed a timely appeal from the September 4, 2008, reference 02, decision that denied her request to backdate her claim. After due notice was issued, a hearing was held on September 24, 2008. Ms. Shumaker participated. The administrative law judge took official notice of the following administrative file documents: The August 29, 2008, reference 01, decision regarding the claimant's separation from employer Holy Family Catholic childcare and the August 29, 2008 UISC Message created by Workforce Development representative Andrea Muntz based on contact with the claimant.

ISSUE:

Whether Ms. Shumaker has presented sufficient grounds to justify or excuse the delay in filing for regular unemployment insurance benefits through Iowa Workforce Development and whether good cause exists to backdate the claim for regular unemployment insurance benefits.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Coralita Shumaker separated from her most recent employment on or about July 22, 2008. Ms. Shumaker had given the employer notice of a quit to be effective on or about August 9, 2008. The employer discharged Ms. Shumaker on July 23, 2008, before the notice period expired.

Within a couple days of separating from the employment, Ms. Shumaker received a notice from Workforce Development that invited her to apply for EUC (Emergency Unemployment Compensation) benefits. EUC benefits program was based on the flooding that occurred in Iowa during June 2008. The invitation to apply for EUC benefits had nothing to do with Ms. Shumaker's separation from her employment on July 23, 2008. Ms. Shumaker received the invitation to apply for EUC benefits because she had had a claim for unemployment insurance benefits in 2007, which claim for benefits had expired. Ms. Shumaker mailed an application for EUC benefits to Workforce Development on or about July 23.

Ms. Shumaker did not apply for regular unemployment insurance benefits until Monday, August 4, 2008. On Friday, August 1, or Monday, August 4, Ms. Shumaker contacted Workforce Development to check on the status of her EUC benefits application. A Workforce Development representative told Ms. Shumaker that she could not be considered for EUC benefits until she had first applied for regular unemployment insurance benefits and been denied regular unemployment insurance benefits. This information would have been consistent with information contained in the notice Ms. Shumaker had received on about July 23 regarding the EUC benefits program. On August 4, 2008, Ms. Shumaker applied for regular unemployment insurance benefits. The Agency deemed the claim for benefits effective August 3, 2008.

On August 28, 2008, Ms. Shumaker participated in a fact-finding interview that addressed her July 23, 2008, separation from Dubuque-Holy Family Catholic. On August 29, 2008, a Workforce Development representative entered a reference 01 decision that concluded Ms. Shumaker had voluntarily quit without good cause attributable to the employer, but that the employer had terminated the employment prior to the notice period. The Workforce Development allowed benefits for the one week period of August 3-9, 2008. The Workforce Development representative did not allow benefits for the period of July 27 through August 1, 2008, because this period predated the August 3, 2008 effective date of Ms. Shumaker's claim for regular unemployment insurance benefits. On or about August 29, Ms. Shumaker spoke with a Workforce Development representative and requested to backdate her claim to July 27, 2008.

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 evidence indicates that Ms. Shumaker did not take any steps to apply for regular unemployment insurance benefits until August 4, 2008, though she had separated from her employment on July 23, 2008. The evidence indicates that Ms. Shumaker had applied for EUC (Emergency Unemployment Compensation) benefits during the last week of July. Ms. Shumaker's application for the EUC benefits was not a substitute for applying for regular unemployment insurance benefits. Nor did the application for EUC benefits prevent Ms. Shumaker from applying for regular unemployment insurance benefits. Ms. Shumaker did not keep a copy of the application she completed for EUC benefits. The material Ms. Shumaker would have received regarding the EUC program would have told her she first needed to be deemed ineligible for regular unemployment insurance benefits before she could be considered for EUC benefits. What Ms. Shumaker referred to as getting "the runaround" from Workforce Development about her application for EUC benefits was actually Workforce Development complying with the requirements of the federal EUC benefit program.

The administrative law judge concludes good cause does not exist to backdate the claim and that Ms. Shumaker has not presented sufficient grounds to justify or excuse delay in filing for regular unemployment insurance benefits. The request to backdate the claim to a day prior to August 3, 2008 is denied.

DECISION:

The Agency representative's September 4, 2008, reference 02, decision is affirmed. The claimant has not presented sufficient grounds to justify or excuse the delay in filing for regular

unemployment insurance benefits. Good cause does not exist to backdate the claim for benefits to a date prior to August 3, 2008. The claimant's request to backdate the claim is denied.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

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