

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JERZY HOFMAN
Claimant

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

APPEAL 17A-UI-06777-JP

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 06/18/17
Claimant: Appellant (2)**

Iowa Admin. Code r. 871-24.2(1)h(1) & (2) – Backdating

STATEMENT OF THE CASE:

Claimant filed an appeal from the July 3, 2017, (reference 02) unemployment insurance decision that denied the request to backdate the claim for benefits prior to June 18, 2017. After due notice was issued, an in-person hearing was held at 1000 East Grand Avenue in Des Moines, Iowa, on July 21, 2017. Claimant participated.

ISSUE:

May the claim be backdated prior to June 18, 2017?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant filed a claim for benefits with an effective date of June 18, 2017 and wishes to backdate the claim to June 11, 2017. Claimant was placed on a two week temporary layoff starting the week beginning June 11, 2017. Claimant attempted to file his weekly continued claim on Sunday, June 18, 2017, but he was unsuccessful. On June 20, 2017, claimant went to Iowa Workforce Development and was informed that he had to open his claim before he could file his weekly continued claim.

Claimant has filed claims for benefits prior to this two week layoff. When claimant had prior short-term temporary layoff, his employer (John Deere) would open his claim on his behalf. The most recent time claimant filed a claim for benefits, was in 2016 when his employer had a large indefinite layoff. When this layoff occurred, the employer had an employee from IWD come and explain to the employees that they were not longer considered employees that they had to file their own claims for benefits. Claimant understood that because he was no longer considered an employee, he had to open his claim for benefits. The employer did not tell claimant that they would no longer open unemployment insurance claims for benefits for employees. Claimant testified he has been with John Deere for seven years and they have always opened/reopened his claim for unemployment insurance benefits when he was considered an employee.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant's request to backdate the claim is granted.

Iowa Code section 96.6(1) provides:

1. Filing. Claims for benefits shall be made in accordance with such regulations as the department may prescribe.

Iowa Admin. Code r. 871-24.2(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 a 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 October 2016, *Unemployment Insurance Benefits Handbook*, provides in pertinent part at pages 13 and 14:

CLAIM EFFECTIVE DATE

The effective date of all UI claims, regardless of filing method, will be the Sunday of the week in which the application was filed.

and

REACTIVATING A CLAIM

An individual can start and stop claiming weekly benefits as many times as necessary during the benefit year. This is called a break in reporting status. Any break in reporting requires the individual to file another initial claim application during the week he/she wants to start collecting benefits again. Any employment during the break must be reported.

The October 2016, *Unemployment Insurance Benefits Handbook*, provides in pertinent part at pages 19 and 20:

Filing Weekly Claims

How to File

After you file your initial claim, file weekly claims online at iowaworkforcedevelopment.gov for every week you are unemployed or your hours are reduced. You must file a weekly claim for any week that you want payment even if your eligibility is being decided or you have an appeal pending.

To request UI benefit payments during weeks of unemployment, individuals must certify they:

- are currently unemployed or working reduced hours
- are able to work and available for work
- have not refused any job offers or referrals to a job
- are actively looking for work (unless waived)
- are reporting any pay or pension payment

When to File

The current week is the week that just ended on Saturday. Individuals are strongly encouraged to file their weekly claims between the hours of 9:00 am Saturday through 11:30 pm Sunday. Failing to do so can potentially delay benefits.

IMPORTANT: You will receive confirmation that the claim has been processed successfully. If you don't receive confirmation, the process must be repeated until the claim has been successfully submitted.

Claimant was placed on a two week temporary layoff starting the week beginning June 11, 2017. In the past, when claimant was an employee and on a short term layoff, the employer would initiate his claim and then he would just file his weekly continued claim for benefits. The employer stopped its practice of initiating claims, but did not inform claimant that it stopped this practice. The employer also did not inform claimant that he needed to initiate/open his claim prior to the Saturday of his first week of unemployment. Claimant attempted to file his weekly continued claim for benefits on Sunday, June 18, 2017 for the week beginning June 11, 2017, but he was unsuccessful. Claimant was unaware he had to initiate/open his claim before Saturday of the first week he was filing his claim for benefits. Furthermore, claimant credibly testified that in his past seven years of employment with this employer, the employer had informed him that it would open his claims, he just had to file his weekly continued claim. Although in 2016, an IWD employee instructed claimant that he had to open his claim for the indefinite layoff, claimant credibly testified that he understood that this was only because he was no longer considered an employee, but had he still been an employee, then the employer would have filed his claim for benefits. Claimant's confusion about who was responsible for filing/opening an original claim given an approximately seven year history of the employer opening his claims, is considered a good reason for the erroneous delay in filing his weekly continued claims. It is also noted that claimant went to IWD within two days of discovering there was an issue in filing his weekly continued claim to resolve the issue. Claimant has shown a good cause reason for having failed to file a claim during the first week of unemployment. Backdating is granted.

DECISION:

The July 3, 2017, (reference 02) unemployment insurance decision is reversed. Claimant's request to backdate the claim to June 11, 2017, is granted, as are retroactive benefits for the same time period.

Jeremy Peterson
Administrative Law Judge

Decision Dated and Mailed

jp/rvs