

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**BRENT A BERGER**  
Claimant

**DEE ZEE INC**  
Employer

**APPEAL 17A-UI-07928-JP-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 07/09/17**  
**Claimant: Appellant (2)**

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

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the August 2, 2017, (reference 03) unemployment insurance decision that denied the request to backdate the claim for benefits prior to July 9, 2017. The parties were properly notified about the hearing. A telephone hearing was held on August 22, 2017. Claimant participated. Employer participated through human resources specialist Lacey Little. Official notice was taken of the administrative record with no objection.

**ISSUE:**

May the claim be backdated prior to July 9, 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 July 9, 2017 and wishes to backdate the claim to July 2, 2017. Claimant was on a temporary one week layoff for the week beginning July 2, 2017. Claimant last filed a claim for unemployment insurance benefits in 2014. Claimant first tried to file his claim for benefits on Sunday, July 9, 2017, but he was unsuccessful because he was locked out. Claimant received a message to contact Iowa Workforce Development (IWD). Claimant thought he had until Monday morning to file his claim. In the past, claimant would file his claim on Sunday or Monday morning without any issues. On July 10, 2017, claimant contacted IWD and an employee helped him update his profile and initiate his claim. Claimant told the employee he wanted to file a claim for benefits for the week beginning July 2, 2017. Claimant understood that during the phone call the IWD employee filed his claim for the week beginning July 2, 2017. Claimant realized there was an issue when he received a phone call for a fact-finding interview on August 1, 2017. Claimant then received a decision dated August 2, 2017 denying his request to backdate his claim.

Claimant earned gross wages (holiday pay) of \$197.76 for the week-ending July 8, 2017.

## 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](http://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.

The Unemployment Insurance Benefits Handbook indicates a claim effective date is the Sunday of the week in which the application was filed. There is no instruction that a new, additional or reopened claim must be filed before Saturday of the week of separation or unemployment. Further, there is no indication that a new, additional or reopened claim must be filed by the close of business on Friday of the week the unemployment begins.

Claimant last filed a claim for benefits almost three years ago. On July 9, 2017, claimant attempted to file his claim for benefits as he had in prior years for the week ending July 8, 2017; however, he was unsuccessful. Claimant's decision to wait until the weekend before he attempted to file his claim was reasonable given his almost three year break since he last filed a claim for benefits and his past history of waiting until the weekend to file his claim. Claimant immediately contacted IWD on Monday, July 10, 2017 regarding his claim. During claimant's phone conversation with IWD, he understood that the employee was processing/backdating his claim for the week beginning July 2, 2017. Because claimant informed the IWD employee he wanted to file his claim for the week beginning July 2, 2017, this is treated as his initial request to backdate his claim for benefits. Claimant discovered his request to backdate his claim was denied when he received the decision dated August 2, 2017.

Since claimant attempted to file a new claim on the weekend as he had in prior years but was locked out of the online claim system, his delay in filing within the next business week is considered a good cause reason for having failed to file a claim during the first week of unemployment. Backdating is allowed.

**DECISION:**

The August 2, 2017, (reference 03) unemployment insurance decision is reversed. Claimant's request to backdate the claim to July 2, 2017, is granted, as are retroactive benefits for the same time period subject to any deductible income.

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Jeremy Peterson  
Administrative Law Judge

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Decision Dated and Mailed

jp/rvs