

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

MICHAEL R BANDSTRA
Claimant

APPEAL 16A-UI-02885-JP-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 11/15/15
Claimant: Appellant (2)**

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

STATEMENT OF THE CASE:

Claimant filed a timely appeal from the March 3, 2016 (reference 01) unemployment insurance decision that denied the request to backdate the claim for benefits prior to February 28, 2016. After due notice was issued, a hearing was held by telephone conference call on March 29, 2016. Claimant participated.

ISSUE:

Should the claimant's request to backdate the claim prior to February 28, 2016 be granted?

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 November 15, 2015. On Sunday, February 28, 2016, claimant tried to file a claim for benefits for the week beginning February 21, 2016 but received a message that there was a reporting break on his claim. Claimant contacted the Sioux City office on February 29, 2016 and was advised to contact the Des Moines office. On March 1, 2016, claimant contacted the Des Moines office and was told they would try to backdate his claim. Claimant desires to backdate the claim to February 21, 2016. Claimant was not aware on February 28, 2016 that because there was a break in his claim he needed to reopen his claim before Saturday of the week he was claiming benefits. Claimant had worked the week prior to February 21, 2016.

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), (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.

Claimant worked the week prior to February 21, 2016. Claimant attempted filed a claim for benefits on February 28, 2016; for the week beginning February 21, 2016. Claimant's claim was denied because there had been a reporting break on his claim. Claimant was unaware he had to reopen his claim before Saturday of the week he was filing his claim, if there was a break in the claim. Claimant did receive a copy of the Unemployment Insurance Benefits Handbook.

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. There is no clear instruction or distinction between original claim, an additional or reopened claim and a weekly claim. The reasonable confusion about filing an original claim, an additional or reopened claim, and a weekly claim is considered a good reason for the erroneous delay in filing weekly VRU/online web application continued claims. Backdating is granted.

DECISION:

The March 3, 2016 (reference 01) unemployment insurance decision is reversed. The claimant's request to backdate the claim to February 21, 2016 is granted.

Jeremy Peterson
Administrative Law Judge

Decision Dated and Mailed

jp/can