

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ARLENE F VAN SCHEPEN
Claimant

APPEAL NO. 16A-UI-02665-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 02/07/16
Claimant: Appellant (2)

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

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated February 19, 2016, reference 01, which denied claimant's request to backdate a claim. After due notice, a telephone conference hearing was scheduled for and held on March 28, 2016. Claimant participated personally. Claimant's Exhibit A was admitted into evidence

ISSUE:

The issue is whether the claim should be backdated.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant filed a claim for benefits with an effective date of February 7, 2016. Claimant asserts that the claim should be backdated because claimant submitted an initial claim for unemployment insurance on January 22, 2016. Claimant had a previous claim already on file which she had filed as an original claim on January 25, 2015.

Claimant waited to hear from IWD about whether she would be able to file weekly claims on the initial claim filed on January 22, 2016. After not hearing for a couple weeks from IWD claimant contacted IWD and found out she needed to file another original claim. Claimant filed this on February 7, 2016.

REASONING AND CONCLUSIONS OF LAW:

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

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) § 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 department did not recognize claimant's expiration of her prior benefit year was to occur two days after she renewed her filing on January 22, 2016. As the department did not recognize this and alert the claimant, the claimant sat waiting for the response to her previous filing when she should have entered an original claim after the expiration of her previous claim on January 24, 2016. The lack of notice by a department representative is considered a good-cause reason for having failed to file a claim during the first week of unemployment. Backdating is allowed.

DECISION:

The decision of the representative dated February 19, 2016, reference 01, is reversed. Claimant's request to backdate the claim is granted. Claimant's claim may be backdated to January 24, 2016.

Blair A. Bennett
Administrative Law Judge

Decision Dated and Mailed

bab/css