

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

BRADLEY T PETERSEN
Claimant

APPEAL 17A-UI-00987-JCT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 12/25/16
Claimant: Appellant (2)**

Iowa Code § 96.6(1) – Filing Claims
Iowa Admin. Code r. 871-24.2(1)h(1) & (2) – Backdating

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the January 20, 2017, (reference 01) unemployment insurance decision that denied the request to backdate the claim for benefits prior to December 25, 2016. After due notice was issued, a hearing was held by telephone conference call on February 17, 2017. The claimant participated personally. Chris Petersen, wife of the claimant, testified as well. The administrative law judge took official notice of the administrative records including the fact-finding documents. Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

May the claim be backdated prior to December 25, 2016?

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 December 25, 2016, in response to a temporary layoff that was from December 19 through 24, 2016. The claimant was on “standby” during the week of December 19 through 24, 2016 and his work week includes Saturday. According to the testimony offered, if the claimant worked even one day during his work week, he would exceed his weekly benefit amount and not need to file for unemployment insurance benefits. Consequently, the claimant missed the cutoff time to establish his weekly claim before he attempted to make his continued weekly claim over the weekend. When the claimant with his wife’s assistance, attempted to establish his weekly claim, they encountered technical difficulties, preventing the establishing of the claim during the week that ended December 24, 2016. The claimant and his wife contacted his local IWD office in Creston the next week for help and were advised if they could not log on, they would have to go visit the Council Bluffs office for assistance. The claimant seeks to backdate his claim to December 18, 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 Code § 96.6-1 provides:

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

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Iowa Admin. Code r. 871-24.2(1)h(1) and (2) 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.

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 do not 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. In the claimant's case, he did not know if he would be employed until the close of business on Saturday. When he attempted to file his claim, he experienced technical issues. He attempted to resolve the matter the next week by contacting his local office. It is suggested that the claimant contact his local office how to avoid such delay, should further layoffs (in which the claimant will not know if he is laid off until Saturday) occur. The claimant is also reminded that he may receive assistance in filing of his claim through family, but that he is ultimately responsible for his claim being successfully transmitted each week he seeks to claim benefits.

Since the claimant attempted to file the claim on the weekend but was locked out of the online claim system, the 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. The claim is effective December 18, 2016.

DECISION:

The January 20, 2017, (reference 01) unemployment insurance decision is reversed. The claimant's request to backdate the claim to December 18, 2016, is granted, as are retroactive benefits for the same time period.

Jennifer L. Beckman
Administrative Law Judge

Decision Dated and Mailed

jlb/rvs