

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JOE S SECA
Claimant

APPEAL NO. 14A-UI-02376-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 02/23/14
Claimant: Appellant (1)

871 IAC 24.2(1)h - Backdating

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated March 3, 2014, reference 01, that denied the claimant's request to backdate his claim. A telephone hearing was held on March 28, 2014. Proper notice of the hearing was given to the claimant. The claimant participated in the hearing.

ISSUE:

When should the claimant's claim for unemployment insurance benefits be made effective?

FINDINGS OF FACT:

The claimant worked for Baker Electric from April 2013 to January 31, 2014. As of January 31, 2014, he was laid off due to winter weather conditions. The claimant filed a new claim for unemployment insurance benefits during the week of February 23, 2014. He did not file the claim during the week he was laid off or the following week because his employer told him that he would be contacted about returning to work. The claimant requested that the claim be backdated to be effective February 2, 2014.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is on what date the claim for benefits should be made effective.

The unemployment insurance rules state when claim are made effective in 871 IAC 24.2(1)h(1) and (2).

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.

The reason the claimant failed to file an earlier unemployment insurance claim was because he thought he was going to be recalled to work. He has not shown he received incorrect advice by an agency employee, his failure to file an earlier claim was due to the employer's failure to comply with the law, or the employer prevented the claimant from promptly filing a claim. He has failed to establish sufficient grounds to justify or excuse the delay in filing his claim. The claim for unemployment insurance benefits is effective February 23, 2014.

DECISION:

The unemployment insurance decision dated March 3, 2014, reference 01, is affirmed. The claimant's request to backdate the claim is denied.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/css