

**IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI**

**DARREN O'DONNELL
431 ZELLER ST
NORTH LIBERTY IA 52317**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**Appeal Number: 06A-UI-00201-BT
OC: 09/18/05 R: 03
Claimant: Appellant (1)**

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

871 IAC 24.2(1)a & h(1) & (2) - Backdating

STATEMENT OF THE CASE:

Darren O'Donnell (claimant) appealed an unemployment insurance decision dated December 28, 2005, reference 04, which denied his request to backdate his claim prior to September 18, 2005. After a hearing notice was mailed to the party's last-known address of record, a telephone hearing was held on January 23, 2006. The claimant participated in the hearing.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant filed a claim for benefits with an effective date of September 18, 2005 after separating from his employer on September 3, 2005. He requests

his claim be backdated to September 4, 2005 because he now contends he was misled by Iowa Workforce. The claimant does not know with whom he spoke but reported a Workforce representative advised him by telephone he had to wait two weeks to file his claim. The claimant stated that this individual was under the mistaken viewpoint that he was going to be laid off as opposed to knowing that he was discharged from employment.

REASONING AND CONCLUSIONS OF LAW:

The issue to be determined is whether the claimant's request to backdate his claim should be granted. For the reasons that follow, the administrative law judge concludes the claimant's request to backdate his claim is denied.

871 IAC 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.

The claimant now contends he was given incorrect information by Iowa Workforce but also testified the Workforce employee was under a mistaken impression he was laid off when he was actually discharged. Iowa Workforce representatives cannot be held responsible for giving out incorrect information based on inaccurate facts. Furthermore, the claimant could have gone to a local office for information or could have looked on the Internet, and both sites would provide accurate information. The Administrative Law Judge does not find the claimant's delay was due to Iowa Workforce. The claimant has failed to establish good cause for failing to file his unemployment insurance benefits at the time he was discharged. Backdating is denied.

DECISION:

The unemployment insurance decision dated December 28, 2005, reference 04, is affirmed. The claimant's request to backdate his claim is denied.

sdb/tjc