

**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**

**GUY L PETERS  
5904 S 173<sup>RD</sup> AVE  
OMAHA NE 68135**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**Appeal Number: 05A-UI-11082-LT  
OC: 10-16-05 R: 12  
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.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

871 IAC 24.2(1)a & h(1) & (2) – Backdating  
Iowa Code § 96.4(4) – Monetary Eligibility and Subsequent Benefit Year  
Iowa Code § 96.5(1) – Voluntary Leaving

STATEMENT OF THE CASE:

Claimant filed a timely appeal from the October 26, 2005, reference 01, decision that denied the request to backdate the claim for benefits. After due notice was issued, a hearing was held on November 14, 2005. Claimant did participate.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed as a full-time officer of the company through September 25, 2005, when he left the employment because he could not afford to pay salary to both himself and a manager. He did not file his claim for benefits until the week beginning October 16, 2005, which put his base

period into a different quarter, beginning the third quarter of 2004 rather than the second quarter of 2004. The reason for the delay was that, in spite of having reported wages for himself, he was unaware he was able to file a claim until speaking to a friend about the issue. He did not consult with or inquire of IWD about his eligibility.

#### REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant's request to backdate the 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.

Iowa Code section 96.4-4 provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

4. The individual has been paid wages for insured work during the individual's base period in an amount at least one and one-quarter times the wages paid to the individual during that quarter of the individual's base period in which the individual's wages were highest; provided that the individual has been paid wages for insured work totaling at least three and five-tenths percent of the statewide average annual wage for insured work, computed for the preceding calendar year if the individual's benefit year begins on or after the first full week in July and computed for the second preceding calendar year if the individual's benefit year begins before the first full week in July, in that calendar quarter in the individual's base period in which the individual's wages were highest, and the individual has been paid wages for insured work totaling at least one-half of the amount of wages required under this subsection in the calendar quarter of the base period in which the individual's wages were highest, in a calendar quarter in the individual's base period other than the calendar quarter in which the individual's wages were highest. The calendar quarter wage requirements shall be rounded to the nearest multiple of ten dollars.

If the individual has drawn benefits in any benefit year, the individual must during or subsequent to that year, work in and be paid wages for insured work totaling at least two hundred fifty dollars, as a condition to receive benefits in the next benefit year.

Failure to request eligibility information from IWD is not considered a good cause reason for having failed to file a claim during the first week of unemployment. Backdating is denied and, as a result, claimant is not monetarily eligible for benefits, as he was not paid 1¼ time his highest base period quarter during the base period, excluding the "lag" quarter (third quarter 2005).

Iowa Code section 96.5-1 provides:

An individual shall be disqualified for benefits:

1. Voluntary quitting. If the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department.

Even if the backdating were to be allowed and the monetary eligibility conditions met, claimant's separation was disqualifying, since he, as an officer of the company, caused his own unemployment by leaving the employment and retaining the manager.

DECISION:

The October 26, 2005, reference 01, decision is affirmed. The claimant's request to backdate the claim is denied.

dml/kjw