

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CAROLE L ARENS
Claimant

APPEAL NO. 11A-UI-13341-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**BODEANS BAKING
HOLDING COMPANY LLC**
Employer

OC: 11/21/10
Claimant: Appellant (1)

871 IAC 24.2(1)(a) & (h)(1) & (2) – Backdated Claim

STATEMENT OF THE CASE:

Carole Arens filed a timely appeal from the October 4, 2011, reference 01, decision that denied her request to backdate her claim to September 25, 2011. After due notice was issued, a hearing was held on November 1, 2011. Ms. Arens participated. Jason Jauron, human resources manager, represented the employer. The hearing in this matter was consolidated with the hearing in Appeal Number 11A-UI-13342-JTT. The administrative law judge took official notice of the Agency's administrative record of the original claim date and additional claim dates.

ISSUE:

Whether Ms. Arens has presented sufficient grounds to justify or excuse the delay in filing for benefits through Iowa Workforce Development and whether good cause exists to backdate the claim for benefits.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Carole Arens is employed full-time with Bodeans Baking Holding Company, L.L.C. Ms. Arens volunteered to be laid off for the period of Monday, September 26, 2011 through Friday, September 30, 2011. Prior to the layoff, Ms. Arens had most recently performed work for the employer on Sunday, September 25, 2011. At the end of the layoff, Ms. Arens returned to work on Saturday, October 1, 2011. On Monday, *October 3*, 2011, Ms. Arens contacted Workforce Development to establish an "additional claim" for benefits to cover the September 26-30, 2011 layoff period. The additional claim was the third such additional claim Ms. Arens had opened in connection with the original claim she had established on November 21, 2010. Prior to the layoff, the employer had sent an e-mail to employees, including Ms. Arens, with instructions to call Workforce Development *during* the week of the layoff if the employee wished to claim unemployment insurance benefits in connection with the layoff. The employer did nothing to persuade, pressure, or misguide Ms. Arens into waiting to file for benefits a week *after* the layoff. Iowa Workforce Development deemed the additional claim to be effective October 2, 2011, the Sunday of the week in which Ms. Arens first contacted Workforce Development to

establish an additional claim. Ms. Arens wants the claim to be backdated to September 25, 2011, the beginning of the week of the layoff.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the evidence indicates sufficient grounds to justify or excuse the delay in filing for benefits through Iowa Workforce Development and whether good cause exists to backdate the claim for benefits.

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 evidence indicates that the only reason Ms. Arens was delayed in filing her claim was her apparent misunderstanding of the employer's clear instructions to contact Workforce Development *during* the week of the layoff if she wished to claim benefits. Neither the employer nor Workforce Development did anything to delay the filing of Ms. Arens' additional claim for benefits. The administrative law judge concludes good cause does not exist to backdate the claim to September 25, 2011. Ms. Arens has not presented sufficient grounds to justify or excuse delay in filing for benefits. Workforce Development correctly used October 2, 2011 as the effective date of the additional claim.

DECISION:

The Agency representative's October 4, 2011, reference 01, decision is affirmed. The claimant has not presented sufficient grounds to justify or excuse the delay in filing for benefits. Good cause does not exist to backdate the claim for benefits. The claimant's request to backdate the claim is denied.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/kjw