

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**NICHOLAS E STAUBER**  
Claimant

**APPEAL NO. 14A-UI-00840-VST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 01/05/14  
Claimant: Appellant (1)**

871 IAC 24.2(1)a and h -- Backdating

**STATEMENT OF THE CASE:**

The claimant filed an appeal from a representative's decision dated January 15, 2014, reference 01, which denied the claimant's request to backdate his claim prior to January 5, 2014. After due notice, a hearing was held on February 14, 2014. The claimant participated personally. The record consists of the testimony of Nicholas Stauber. Official notice is taken of agency records.

**ISSUE:**

Whether the claimant's claim can be backdated.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony of the witness and having considered all of the evidence in the record, makes the following findings of fact:

The claimant is employed by MP Nexlevel, which does underground communications. The claimant works outdoors and weather conditions can affect the employer's ability to work. The claimant worked on December 23, 2013, and December 24, 2013. He was then off work until January 1, 2014. Cold temperatures forced the employer to call of work on several days and the claimant only worked on January 3, 2014. The employer told all the employees on January 7, 2014, that they were being placed on temporary layoff and should file for unemployment insurance benefits. The claimant filed his claim with an original claim date of January 5, 2014.

**REASONING AND CONCLUSIONS OF LAW:**

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's request to backdate his claim prior to January 5, 2014, is denied. Backdating is permitted in limited circumstances and none of those circumstances are present in this case. There is no evidence that the agency gave the claimant incorrect advice or that the employer coerced the claimant from filing for unemployment insurance benefits. In fact, the employer told all the employees to file when a temporary layoff was imposed. The claimant has not provided sufficient grounds to backdate his claim. The claimant's request to backdate his claim is denied.

**DECISION:**

The decision of the representative dated January 15, 2014, reference 01, is affirmed. Claimant's request to backdate his claim is denied.

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Vicki L. Seeck  
Administrative Law Judge

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Decision Dated and Mailed

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