

**EMPLOYMENT APPEALS BOARD DECISION**  
**2016-EAB-1256**

*Affirmed*  
*Late Claim Denied*

**PROCEDURAL HISTORY:** On September 12, 2016, the Oregon Employment Department (the Department) served notice of an administrative decision (decision # 74817) concluding that claimant filed a late claim for benefits for the week of July 31 through August 6, 2016 (week 31-16). Claimant filed a timely request for hearing. On October 20, 2016, ALJ Vincent conducted a hearing, and on October 26, 2016, issued Hearing Decision 16-UI-69943, affirming the administrative decision. On November 14, 2016, claimant filed an application for review with the Employment Appeals Board (EAB).

**FINDINGS OF FACT:** (1) On Sunday, August 7, 2016, claimant filed an initial claim for unemployment benefits.

(2) On August 29, 2016, claimant claimed benefits for the week of July 31 through August 6, 2016 (week 31-16), the week at issue. Claimant misunderstood the applicable rules for filing his claim and thought he needed to file for benefits when his employer was temporarily shut down.

**CONCLUSION AND REASONS:** We agree with the ALJ and conclude that claimant did timely file a claim for benefits for week 31-16.

OAR 471-0030-0040(3)(February 23, 2014) provides that “an initial, additional, or reopened claim must be filed prior to or during the first week or series of weeks for which benefits, waiting week credit, or noncompensable credit is claimed...” and also provides that an initial claim is “effective on the Sunday of the calendar week in which it is filed.” Although an Employment Department will, upon request, backdate an additional or reopened claim to the calendar week immediately preceding the week in which the backdating request was made, there is no provision in the rules that permits backdating of an initial claim. *Id.*

Claimant’s claim, which was filed on Sunday, August 7, was effective for the calendar week in which it was filed – August 7 through 13, 2016. Because there are no provisions allowing backdating an initial

claim, even when it results from a misunderstanding of the applicable rule, claimant's claim for benefits for week 31-26, the week preceding the week in which he filed his initial claim, must be denied.

**DECISION:** Hearing Decision 16-UI-69943 is affirmed.

Susan Rossiter and D. P. Hettle;  
J. S. Cromwell, not participating.

**DATE of Service:** December 1, 2016

**NOTE:** You may appeal this decision by filing a Petition for Judicial Review with the Oregon Court of Appeals within 30 days of the date of service listed above. *See* ORS 657.282. For forms and information, you may write to the Oregon Court of Appeals, Records Section, 1163 State Street, Salem, Oregon 97310 or visit the Court of Appeals website at [courts.oregon.gov](http://courts.oregon.gov). Once on the website, use the 'search' function to search for 'petition for judicial review employment appeals board'. A link to the forms and information will be among the search results.

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