

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

CHRISTOPHER S GONNERMAN
Claimant

APPEAL 18A-UI-11136-SC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

KING CONSTRUCTION
Employer

**OC: 12/24/17
Claimant: Respondent (1)**

Iowa Code § 96.7(2)a(6) – Appeal from the Statement of Charges

STATEMENT OF THE CASE:

King Construction (employer) filed an appeal from the Statement of Charges dated November 9, 2018, for the third quarter of 2018. A hearing was held on November 30, 2018, pursuant to due notice. Christopher S. Gonnerman (claimant) did not respond to the hearing notice and did not participate. The employer participated through Office Manager Meghann King. The Employer's Exhibit 1 was admitted into the record.

ISSUE:

Was the employer's appeal from the statement of charges timely?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant filed a claim for benefits effective December 16, 2016. He last worked for the employer on August 17, 2017. The claimant reactivated his claim for unemployment insurance benefits at that time and on September 14, 2017, a reference 01 decision was issued allowing the claimant benefits for the two weeks ending September 2, 2017, but disqualifying him based on a resignation thereafter.

The claimant then began working for a new employer and earned ten times his weekly benefit amount. He was temporarily laid off by his new employer for the winter and filed a new claim for unemployment insurance benefits effective December 24, 2017. Iowa Workforce Development (IWD) did not send a new Notice of Claim to employer at that time.

The employer's first notice of the new claim was the July 16, 2018, Statement of Charges for the first quarter of 2018, that included charges for claimant's benefits in the new claim year. The employer received the Statement within a few days of it being mailed on July 16, 2018. The employer filed its appeal on August 29, 2018. An appeal hearing was held on September 20, 2018 and the administrative law judge found the employer's appeal was not timely filed. (Exhibit 1) The administrative record shows the employer did not appeal the decision to the Employment Appeal Board (EAB).

On November 9, 2018, IWD mailed to the employer the Statement of Charges for the third quarter of 2018, which showed charges to the employer's account based on the claimant's receipt of benefits. The employer filed an appeal to that Statement of Charges on November 14, 2018.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the employer did not timely file its appeal to the Statement of Charges.

Iowa Code section 96.6(2) provides, in pertinent part:

2. Initial determination. A representative designated by the director shall promptly notify all interested parties to the claim of its filing, and the parties have ten days from the date of mailing the notice of the filing of the claim by ordinary mail to the last known address to protest payment of benefits to the claimant.

Iowa Code section 96.7(2)a(6) provides:

2. Contribution rates based on benefit experience.

a. (6) Within forty days after the close of each calendar quarter, the department shall notify each employer of the amount of benefits charged to the employer's account during that quarter. The notification shall show the name of each individual to whom benefits were paid, the individual's social security number, and the amount of benefits paid to the individual. *An employer which has not been notified as provided in section 96.6, subsection 2, of the allowance of benefits to an individual, may within thirty days after the date of mailing of the notification appeal to the department for a hearing to determine the eligibility of the individual to receive benefits.* The appeal shall be referred to an administrative law judge for hearing and the employer and the individual shall receive notice of the time and place of the hearing.

(Emphasis added.) The administrative law judge concludes that the employer failed to timely appeal the claimant's receipt of benefits upon receiving notice. The employer did not receive a notice of claim for the claimant's second benefit year effective December 24, 2017. The first notice the employer received that its account was being charged for benefits in the second benefit year was the Statement of Charges mailed July 16, 2018 for the first quarter of 2018. The employer's appeal dated November 14, 2018 was not filed within thirty days of the first notice the employer had that the claimant was receiving benefits being charged to its account. The employer's appeal is not timely and benefits are allowed.

DECISION:

The November 9, 2018, Statement of Charges for the third quarter of 2018 is affirmed. The employer did not timely file an appeal from the first notification it had that the claimant was receiving benefits chargeable to its account in the second benefit year.

Stephanie R. Callahan
Administrative Law Judge

Decision Dated and Mailed

src/scn