

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JOHN F WALKER
Claimant

TRI CITY ELECTRIC CO OF IOWA
Employer

APPEAL 20A-UI-01641-CL-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 09/23/18
Claimant: Respondent (1R)**

Iowa Code § 96.6(2) – Timeliness of Protest
Iowa Code § 96.7(2)a(6) – Appeal from the Statement of Charges

STATEMENT OF THE CASE:

On February 21, 2020, the employer filed an appeal from the February 7, 2020, Statement of Charges for the fourth quarter of 2019. A hearing was scheduled and held on March 11, 2020, pursuant to due notice. Claimant did not register for the hearing and did not participate. Employer participated through human resources and safety coordinator Nicole Leyendecker. Official notice was taken of the administrative record.

ISSUES:

Is the employer's protest timely?
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: Claimant filed a combined wage claim effective September 23, 2018. Iowa Workforce Development transferred wages to the State of Kansas. Employer never received a Notice of Wage Transfer. The first notice of the claimant's claim for benefits was the receipt of the Statement of Charges mailed February 7, 2020, for the fourth quarter of 2019. It included charges for claimant in the amount of \$3,429.70. The employer filed its appeal of that Statement of Charges on February 21, 2020. Had employer received the Notice of Wage Transfer, it would have protested on the basis that claimant had voluntarily resigned on January 12, 2018. The issue of whether employer should be relieved of charges on this combined wage claim has not yet been investigated or adjudicated at the claims level.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the employer filed a timely appeal from 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.

The administrative law judge concludes that the employer filed its appeal of the Statement of Charges within the time period prescribed by the Iowa Employment Security Law because it did not receive a Notice of Wage Transfer indicating the claimant had filed a combined wage claim. The employer's appeal of that Statement within thirty days is timely. The issue of whether employer should be relieved of charges on this combined wage claim is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination.

DECISION:

The appeal of the February 7, 2020, Statement of Charges for the fourth quarter of 2019 is timely and it had never previously received notice of the claim. The charge for claimant is affirmed pending a determination of whether the employer should be relieved of charges on the combined wage claim.

REMAND:

The issue of whether employer should be relieved of charges on a combined wage claim is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination.



Christine A. Louis
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515)478-3528

March 17, 2020
Decision Dated and Mailed

cal/scn