

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

NATHAN J WELLMAN
Claimant

ARCTIC GLACIER USA INC
Employer

APPEAL 19A-UI-01400-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 11/25/18
Claimant: Respondent (2)**

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:

The employer filed an appeal from the Statement of Charges dated February 8, 2019, for the fourth quarter of 2018. A hearing was scheduled to be held on March 6, 2019, pursuant to due notice. A review of the agency records made clear that no additional testimony was necessary and no hearing was held. Official notice was taken of all agency documents.

ISSUE:

The issue is whether the protest or the appeal from the statement of charges is timely.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: After a notice of claim was mailed to the employer, the employer participated in a fact-finding interview on January 4, 2019. As a result of that fact-finding interview on January 7, 2019, reference 01, decision was issued in the employer's favor denying benefits to the claimant. The decision was not appealed by the claimant and has become final. An additional decision was issued on January 10, 2019, reference 02, finding the claimant overpaid unemployment insurance benefits in the amount of \$734.00 was not appealed by the claimant and has also become final. The employer received the statement of charges dated February 8, 2019 for the fourth quarter 2018. The statement of charges included the charges for \$734.00 paid to the claimant for which the agency has determined the employer is not liable. The employer filed an appeal to the fourth quarter 2018 statement of charges on February 15, 2019. The employer will be awarded a credit on their next quarter statement of charges for the \$734.00 in benefits paid to the claimant.

REASONING AND CONCLUSIONS OF LAW:

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 they had already been relieved of any liability for benefits paid to claimant by a decision issued on January 7, 2019. The employer shall be given a credit on their next statement of charges.

DECISION:

The February 8, 2019, Statement of Charges for the fourth quarter of 2018 for claimant Nathan J. Wellman is reversed. The employer will be given a credit for \$734.00 on their next quarter statement of charges.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/rvs