

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JOSH L JOHNSON
Claimant

HOUSBY HEAVY EQUIPMENT LLC
Employer

APPEAL 18A-UI-03609-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 08/27/17
Claimant: RESPONDENT (1)

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 for the fourth quarter of 2017 that was mailed on February 9, 2018. The parties were properly notified about the hearing. A telephone hearing was held on April 10, 2018. Claimant did participate. Employer participated through Morgan Wentland, Human Resources Manager. Department Exhibit 1 was admitted into the record.

ISSUE:

Did the employer file a timely appeal to the fourth quarter 2017 Statement of Charges?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant worked for employer Scott Van Keppel LLC (Scott) until August 31, 2017. After his separation from employment, the claimant filed a claim for unemployment insurance benefits with an effective date of August 27, 2017. Scott was sent a notice of claim on September 5, 2017 indicating the claimant had filed for unemployment insurance benefits and their account could be subject to charges of \$8,600.59 dollars. On September 11, 2017, Scott filed a response indicating that they were NOT protesting the claimant's claim for benefits. Claimant received weekly benefits through the week ending January 13, 2018 totaling \$7,735.00.

Housby Heavy Equipment LLC (Housby) purchased Scott's assets effective September 1, 2017. The tax bureau of Iowa Workforce Development Department has determined that Housby was a successor corporation of Scott in a decision dated December 27, 2017. The decision specifically put Housby on notice by telling them that: "You acquired all the business of Scott Van Keppel, LLC, UI account #35490 effective 09/01/2017. All experience will transfer to you. You are liable for any debt this employer may owe Iowa Workforce Development." The decision was mailed to Housby on December 27, 2017. Housby contends they did not appeal that decision because they never received it despite the fact that it was mailed to the correct mailing address.

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.

Housby is the employer to whom the charges for claimant's unemployment insurance benefits are being assessed. Scott specifically indicated to IWD that they were not protesting claimant's claim for unemployment insurance benefits

The December 27, 2017, decision of the tax bureau of IWD remains in effect. The undersigned has no authority to override the successor corporation decision that has been made and become final. That decision holds Housby responsible for any debts that may be owed to IWD by Scott. Housby stands in the shoes of Scott. As Scott specifically indicated to IWD that they were not protesting the claimant's claim for benefits, there was notice of the claim given to Scott. Since Housby now stands in Scott's shoes, that notice is imputed to Housby. Housby is liable for the charges and the administrative law judge must find that Housby has not filed a timely appeal to the statement of charges as there was prior notice of the claim. The fourth quarter statement of charges remains in full force and effect.

DECISION:

The February 9, 2018, Statement of Charges remains in full force and effect. Housby's predecessor specifically chose not to protest the claim and the successor corporation decision of December 27, 2017 has become final. The charges shall remain in full force and effect.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/rvs