

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

MONICA S MCMILLIAN
Claimant

LA LEASING INC
Employer

APPEAL 18A-UI-09136-DB-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 03/03/13
Claimant: Respondent (2)**

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 August 9, 2018, which listed charge information for the second quarter of 2018. Due notice was issued and a hearing was held on September 24, 2018. Claimant did not participate. Employer participated through witness Colleen McGuinty. The administrative law judge took official notice of the claimant's unemployment insurance benefits records.

ISSUE:

Is 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's original claim date is March 3, 2013. An unemployment insurance decision was issued on March 28, 2013 (reference 01) which held that the claimant was eligible for benefits because claimant was not performing services in the same pattern of employment as in the base period. The decision further held that the employer's account would not be relieved of charges. The administrative records for the claimant establish that no appeal was filed from this decision. Claimant received benefits between March 3, 2013 and July 6, 2013. Ms. McGuinty testified that the employer was charged for benefits paid during the first, second, and third quarters of 2013 and the employer received a credit for the first quarter of 2014 when it received its statement of charges. On January 30, 2014, an unemployment insurance benefits decision found that the claimant was overpaid benefits of \$1,264.48 due to her failure to report earnings from L A Leasing Inc between March 3, 2013 and July 6, 2013. A 15% penalty was added due to misrepresentation. The administrative records for the claimant establish that no appeal was filed from this decision issued on January 30, 2014.

An offset from an Iowa lottery prize was processed on June 26, 2018 in the amount of \$1,264.48 and applied towards the claimant's outstanding overpayment balance. The statement of charges dated August 9, 2018 for the second quarter ending June 30, 2018 charged the employer for benefits paid in the amount of \$730.34. The first notice that the employer received that it would be charged again for benefits paid to claimant was the statement of charges that was mailed to the employer on August 9, 2018. The employer filed

an appeal to the statement of charges on August 30, 2018. The administrative records establish that no benefits were paid to the claimant after week-ending July 6, 2013. It appears that the charge to the employer's account on the August 9, 2018 statement of charges was in error.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes as follows:

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.

In this case, the employer was previously notified of an allowance of benefits in the March 28, 2013 (reference 01) unemployment insurance decision; however, charges to the employer's account were completed in 2013 and 2014. The charge to the employer's account on the August 9, 2018 statement of charges was in error. The employer has filed an appeal to the statement of charges within thirty days of the date of mailing of the statement of charges. As such, the employer's appeal to the statement of charges dated August 9, 2018 is timely. The statement of charges for the second quarter of 2018 must be reversed regarding this claimant.

DECISION:

The conditions for appealing the statement of charges dated August 9, 2018 for the second quarter of 2018 have been met. The August 9, 2018 statement of charges for the second quarter of 2018 regarding this claimant is reversed.

Dawn Boucher
Administrative Law Judge

Decision Dated and Mailed

db/rvs