

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

DANNY R SCAVO JR
Claimant

APPEAL NO. 07A-UI-06803-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

USA STAFFING INC
Employer

OC: 09/10/06 R: 02
Claimant: Respondent (1-R)

Section 96.7-2-a – Appeal from Statement of Charges

STATEMENT OF THE CASE:

USA Staffing, Inc. filed a timely appeal from a first quarter 2007 statement of charges that showed benefits being paid to Danny R. Scavo, Jr. and being charged to the account of the employer. After due notice was issued, a telephone hearing was held July 24, 2007 with business development director Jodi McGonigle participating for the employer. Mr. Scavo did not respond to the hearing notice.

ISSUE:

Does the administrative law judge have jurisdiction to relieve the employer of charges for benefits paid to the claimant.

FINDINGS OF FACT:

Having heard the testimony of the witness and having examined all of the evidence in the record, the administrative law judge finds: Danny R. Scavo, Jr. filed a claim for unemployment insurance benefits during the week of September 10, 2006. USA Staffing, Inc. did not receive a notice of claim. The statement of charges for the fourth quarter of 2006, received by the employer, showed benefits of less than a dollar being charged to its account because of benefits paid to Mr. Scavo. The employer did not appeal. It filed an appeal from the statement of charges for the first quarter of 2007 which showed additional charges to its account due to benefits paid to Mr. Scavo.

Mr. Scavo was paid by USA Staffing, Inc. during several weeks in late October through early December 2006. The only earnings he reported to the Agency were for the week ending December 2, 2006.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the employer may be relieved of charges for benefits paid to Mr. Scavo. It cannot.

The general rule is that an employer must file a response to a notice of claim within ten days after the notice being mailed to it. See Iowa Code section 96.6-2. The evidence in this record persuades the administrative law judge that the employer did not receive a notice of claim concerning Mr. Scavo. In cases such as that, the employer may file an appeal from the first statement of charges showing benefits paid to a particular individual. See Iowa Code section 96.7-2-a. The employer did not do so. It waited until the second statement of charges. Under these circumstances, the administrative law judge has no authority to relieve it of charges for benefits paid to Mr. Scavo.

DECISION:

The statement of charges for the first calendar quarter of 2007 is affirmed as to charges made for benefits paid to Danny R. Scavo, Jr. The matter of whether the claimant properly reported his earnings during the fourth calendar quarter of 2006 is remanded to the unemployment insurance services division.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs