

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

GERALD T BIGA
Claimant

APPEAL NO. 12A-UI-09248-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**FREELAND CORPORATION
FIELD PAPER CO**
Employer

OC: 07/01/12
Claimant: Respondent (2)

871 IAC 23.43(9) – Employer Liability on Combined Wage Claim

STATEMENT OF THE CASE:

The employer filed a timely appeal from the July 26, 2012, reference 01, decision that stated the employer's account could not be relieved of charges paid to the claimant in connection with a claim for benefits established in another state. After due notice was issued to the employer, a hearing was held August 23, 2012. Michael Freeland, president, represented the employer. The Appeals Section was unable to provide notice of the hearing to the claimant. The agency's address of record for the claimant does not include the claimant's apartment number and the United States Postal Service returned the notice due to an insufficient address. Exhibits One, Two, and Three, and Department Exhibits D-1 and D-2 were received into evidence.

ISSUE:

Whether the employer's account can be relieved of charges in connection with a claim for unemployment insurance benefits established in Kansas.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Gerald Biga was employed by Freeland Corporation, doing business as Field Paper Company, on a full-time basis from 1987 until July 29, 2011, when he voluntarily quit for personal reasons. From 1992, Mr. Biga had been the employer's branch manager for Iowa. The employer continued to have work available for Mr. Biga at the time Mr. Biga separated from the employment.

Mr. Biga established a claim for unemployment insurance benefits in Kansas that was effective July 1, 2012. Iowa Workforce Development reported Iowa wages to Kansas for inclusion in the combined wage claim. Those wages included wages based on the employment with Freeland Corporation.

REASONING AND CONCLUSIONS OF LAW:

Workforce Development rule 871 IAC 23.43(9)(a) and (b), provides as follows:

Combined wage claim transfer of wages.

a. Iowa employers whose wage credits are transferred from Iowa to an out-of-state paying state under the interstate reciprocal benefit plan as provided in Iowa Code section 96.20 will be liable for charges for benefits paid by the out-of-state paying state. No reimbursement so payable shall be charged against a contributory employer's account for the purpose of Iowa Code section 96.7, unless wages so transferred are sufficient to establish a valid Iowa claim, and such charges shall not exceed the amount that would have been charged on the basis of a valid Iowa claim. However, an employer who is required by law or by election to reimburse the trust fund will be liable for charges against the employer's account for benefits paid by another state as required in Iowa Code section 96.8(5), regardless of whether the Iowa wages so transferred are sufficient or insufficient to establish a valid Iowa claim. Benefit payments shall be made in accordance with the claimant's eligibility under the paying state's law. Charges shall be assessed to the employer which are based on benefit payments made by the paying state.

b. The Iowa employer whose wage credits have been transferred and who has potential liability will be notified on Form 65-5522, Notice of Wage Transfer, that the wages have been transferred, the state to which they have been transferred, and the mailing address to which a protest of potential charges may be mailed. This protest must be postmarked or received by the department within ten days of the date the Form 65-5522 was mailed to be considered as a timely protest of charges. If the protest from either the reimbursable or contributory employer justifies relief of charges, charges shall go to the balancing account.

The evidence in the record indicates that Mr. Biga voluntarily quit the employment with Freeland Corporation without good cause attributable to that employer. Under Iowa Code section 96.5(1) and Iowa Code section 96.7(2)(a)(2)(b), the employer would have been relieved of charges for benefits paid to the claimant in connection with an Iowa claim. For that reason, the administrative law judge concludes that the employer's account should be relieved of charges in connection with the combined wage claim established in Kansas.

DECISION:

The Agency representative's July 26, 2012, reference 01, is reversed. The employer's account shall not be charged for benefits paid to the claimant in connection with the combined wage claim established in Kansas, because the employer's account would not have been charged for benefits in connection with an Iowa claim in light of the claimant's July 29, 2011 voluntary quit without good cause attributable to the employer.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

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