

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

SABAHUDIN SABIC
Claimant

HDH TRANSPORT LLC
Employer

APPEAL 19A-UI-01205-SC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 09/16/18
Claimant: Respondent (4)**

Iowa Code Chapter 96 – Requalification
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:

HDH Transport, LLC (employer) filed an appeal from the statement of charges dated February 8, 2019, for the fourth quarter of 2018. A hearing was held on February 28, 2019, pursuant to due notice. Sabahudin Sabic (claimant) participated personally. The employer participated through Manager and Dispatcher Gloria Wickham. The Department's Exhibits D1 through D3 were admitted into the record.

ISSUES:

Was the employer's protest timely?
Was the employer's appeal from the statement of charges timely?
Has the claimant requalified for benefits since the separation?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant separated from employment on December 1, 2017 and filed a claim for benefits effective September 16, 2018. The claimant's weekly benefit amount is \$529.00. The administrative record shows the claimant has earned more than \$5,290.00 in insured wages since the separation and prior to filing the claim for benefits.

The notice of claim was mailed to the employer's address of record on September 24, 2018. The employer did not receive that notice. The employer's first notice of the claim for unemployment insurance benefits was the statement of charges mailed February 8, 2019 for the fourth quarter of 2018. The employer filed its appeal of that statement of charges on February 12, 2019.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the employer did file a timely appeal to the statement of charges and the claimant has requalified for benefits since the separation. Benefits are allowed, provided the claimant is otherwise eligible, and the employer's account shall not be subject to charge.

Iowa Code section 96.6(2) provides, in pertinent part:

Filing – determination – appeal.

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:

Employer contribution and reimbursements.

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 employer filed its appeal of the statement of charges within the time period prescribed by the Iowa Employment Security Law because it did not receive the notice of claim giving it an opportunity to protest the claimant's receipt of benefits chargeable to its account. The employer filed its appeal to the statement of charges within thirty days making the appeal timely. The claimant has requalified for benefits since the separation from this employer by earning ten times his weekly benefit amount in insured wages following the separation. See Iowa Code §§ 96.5(1)g and 96.5(2)a. Accordingly, benefits are allowed, provided the claimant is otherwise eligible, and the account of the employer shall not be charged.

DECISION:

The February 8, 2019, statement of charges for the fourth quarter of 2018 is modified in favor of the appellant, which will appear as a credit to the employer's account on a future statement of charges. The employer has filed a timely appeal from that statement of charges because the notice of claim was not received. The claimant has requalified for benefits since the separation. Benefits are allowed, provided the claimant is otherwise eligible. The account of the employer shall not be charged and a credit shall be issued on a future statement of charges.

Stephanie R. Callahan
Administrative Law Judge

Decision Dated and Mailed

src/scn