

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**TONY L ESTES**  
Claimant

**L A LEASING INC**  
Employer

**APPEAL 18A-UI-09147-DB-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 11/12/17  
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 November 12, 2017. An unemployment insurance decision was issued on December 18, 2017 (reference 04) which held that the claimant was not eligible for benefits due to a refusal of offer of work with this employer. Benefits were denied until the claimant earned ten times his weekly benefit amount after his refusal of offer of work, provided he was otherwise eligible. The administrative records for the claimant establish that no appeal was filed from this decision. No benefits were paid to claimant between November 12, 2017 and February 10, 2018. Benefits were paid to claimant beginning week-ending April 14, 2018.

An unemployment insurance decision was issued on May 7, 2018 (reference 08) which held that the claimant had earned ten times his weekly benefit amount since refusing the offer of work with this employer. The decision further stated that the employer will not be charged for benefits paid and that wage credits earned from April 1, 2017 through November 12, 2017 will be charged to the unemployment compensation fund.

The first notice that the employer received that it would be charged 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.

**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.

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.

(emphasis added).

An employer is only allowed to appeal the statement of charges for a hearing to determine the eligibility of the individual to receive benefits if they were not previously notified pursuant to Iowa Code § 96.6(2) that it would be charged for benefits paid. In this case, the employer was not previously notified of that it would be charged for benefits paid because the decision issued on December 18, 2017 found that the claimant was not eligible for benefits. See Unemployment Insurance Decision issued December 18, 2017 (reference 04). Further, 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 is inconsistent with previous agency action. The employer's account shall not be charged for benefits paid pursuant to the decision issued on December 18, 2017 (reference 04).

**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 is reversed for charges regarding this claimant.

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Dawn Boucher  
Administrative Law Judge

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Decision Dated and Mailed

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