

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

TORI L WADE
Claimant

APPEAL 18A-UI-07338-SC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

CLINTON COMMUNITY SCHOOL DIST
Employer

**OC: 07/02/17
Claimant: Respondent (1)**

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:

Clinton Community School District (employer) filed an appeal from the Statement of Charges dated July 6, 2018, for the first quarter of 2018. A hearing was held on August 1, 2018, pursuant to due notice. Tori L. Wade (claimant) participated personally. The employer participated through CFO Cindy McAleer. No exhibits were offered into the record. The administrative law judge took official notice of the administrative record.

ISSUES:

Was the employer's protest timely?

Was 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: The claimant separated from the employer on June 30, 2017 as her full-time Print Shop Coordinator position was eliminated. She filed her claim for benefits effective July 2, 2017 and her maximum benefit amount chargeable solely to the employer is \$12,298.00. The notice of claim was sent to the employer's SIDES account on July 3, 2017. The employer received the notice and responded that it was not protesting the claimant's receipt of benefits.

The claimant began working for another school district in August on a part-time basis. The employer learned of the new employer and did not believe it would be liable for benefits. On January 15, 2018, the Statement of Charges for the fourth quarter of 2017 was mailed to the employer. The employer contacted the Chargeback Unit of the Tax Bureau for an explanation of the charges. It did not file an appeal to the Statement of Charges as it only wanted an explanation as to what occurred. When someone from the Chargeback Unit responded, they explained the employer's account was being charged as the claimant was earning significantly less with the new employer than she had with the employer.

On March 20, 2018, after concluding an investigation, the agency determined the claimant was overpaid \$2,422.00 due to unreported wages. The employer received the Statement of Charges mailed July 6, 2018 for the first quarter of 2018. It still had questions as to why it was being charged and did not necessarily intend to appeal the Statement of Charges, merely seek additional information. The appeal was filed on July 10, 2018. The Statement of Charges shows the employer is only being charged for \$1,178.00 in benefits paid to the claimant during the first quarter; however, the administrative record shows she properly filed for and received \$3,604.00 in benefits chargeable to the employer's account.

REASONING AND CONCLUSIONS OF LAW:

For the following reasons, the administrative law judge concludes the employer's appeal to the Statement of Charges challenging the claimant's receipt of benefits is not timely.

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's appeal of the Statement of Charges challenging the claimant's receipt of benefits is not timely. An employer has the ability to appeal the Statement of Charges and challenge the benefits received by the claimant only if it did not receive prior notice of the claimant's receipt of benefits. Iowa Code § 96.7(2)a(6). In this case, the employer had prior notice that the claimant was eligible for benefits chargeable to its account and any challenges to the claimant's receipt of benefits have been addressed by the agency. The Statement of Charges is affirmed.

DECISION:

The July 6, 2018, Statement of Charges for the first quarter of 2018 is affirmed. The employer's appeal to the Statement of Charges challenging the claimant's receipt of benefits is not timely as the employer had prior notice that the claimant was receiving benefits chargeable to its account.

Stephanie R. Callahan
Administrative Law Judge

Decision Dated and Mailed

src/rvs