

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JAMES R MCNEELEY
Claimant

APPEAL 20A-UI-04726-AD-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

CAPITAL LANDSCAPING LLC
Employer

OC: 01/05/20
Claimant: Respondent (1R)

Iowa Code § 96.6(2) – Timeliness of Protest
Iowa Code § 96.7(2)a(6) – Appeal from the Statement of Charges
Iowa Admin. Code r. 871-26.4(4) – Commencement of Contested Case

STATEMENT OF THE CASE:

On May 19, 2020, Capital Landscaping LLC (employer/appellant) filed an appeal from the Statement of Charges for the first quarter of 2020, dated May 8, 2020. The Statement of Charges included charges for James McNeeley's (claimant/respondent) unemployment insurance benefits in that quarter.

A telephone hearing was held on July 7, 2020. The parties were properly notified of the hearing. Claimant did not register a number for the hearing and did not participate. Employer participated through owner Phil Glaser. Office Manager Katarina Glaser participated as a witness for employer.

Official notice was taken of the administrative record.

ISSUES:

Is the employer's protest timely?
Did the employer timely appeal the Statement of Charges?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds:

Employer timely appealed the Statement of Charges mailed May 8, 2020, which included charges for claimant's unemployment insurance benefits in the first quarter of 2020. Employer received the notice of claim and did not protest it because claimant was largely laid off at that time except for snow removal work.

However, employer does believe claimant was overpaid benefits due to his underreporting income during the weeks he was claiming benefits, resulting in a greater charge for employer. Employer offered testimony that claimant earned \$325.00 for the week ending January 11, 2020; \$958.00 for the week ending January 18; \$531.00 for the week ending January 25; \$150.00 for the week

ending February 1; \$150.00 for the week ending February 8; \$275.00 for the week ending February 15; and \$552.00 for the week ending March 29. These figures are substantially different than the amounts reported by claimant. Claimant only reported income in the weeks ending January 18 and 25, 2020.

REASONING AND CONCLUSIONS OF LAW:

For the reasons set forth below, the Statement of Charges for the first quarter of 2020, dated May 8, 2020 is AFFIRMED pending remand to the Integrity Bureau of IWD for investigation.

Employer cannot now challenge claimant's eligibility for benefits, as it had prior notice of his claim and an opportunity to protest. However, employer has presented competent evidence suggesting claimant may have underreported income and thus been overpaid benefits, in turn resulting in an artificially high charge for employer. Further investigation into this matter is warranted.

DECISION:

The Statement of Charges for the first quarter of 2020, dated May 8, 2020 is AFFIRMED pending remand to the Integrity Bureau of IWD for investigation.



Andrew B. Duffelmeyer
Administrative Law Judge
Unemployment Insurance Appeals Bureau
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July 21, 2020
Decision Dated and Mailed

abd/mh