

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

DEAN L WHITE
Claimant

NORTH IOWA GRAIN EQUIPMENT INC
Employer

APPEAL 17A-UI-09272-SC-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 12/18/16
Claimant: Respondent (1R)

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:

The employer filed an appeal from the Statement of Charges dated August 9, 2017, for the second quarter of 2017. A hearing was held on September 28, 2017, pursuant to due notice. The claimant did not respond to the hearing notice and did not participate. The employer did participate through Rebecca Lillebo. Department's Exhibits D1 and D2 were received.

ISSUE:

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 filed his claim for benefits effective December 18, 2016. A Notice of Claim was mailed to the employer and it protested on December 27, 2016 stating that the claimant was still employed. On January 9, 2017, an unemployment insurance decision was mailed to the parties stating the claimant was eligible for benefits as he was on a seasonal layoff. The employer did not appeal that decision.

The claimant and employer agreed during the fact-finding call that the claimant would return to work on April 1, 2017. The employer attempted to contact the claimant to return to work. However, the claimant did not return to work.

On August 9, 2017, the employer received its second quarter Statement of Charges notifying it that the claimant was still receiving benefits. The employer appealed the Statement of Charges on September 7, 2017. The issues of whether the claimant separated from work in the second quarter of 2017 and for what reason or if the claimant refused a suitable offer of work in the second quarter of 2017 are remanded to the Benefits Bureau for an initial investigation and determination.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge finds the employer's appeal from the Statement of Charges to be timely.

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

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:

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 administrative law judge concludes that the employer filed its appeal of the Statement of Charges within the time period prescribed by the Iowa Employment Security Law because it filed the appeal within thirty days of the first time it had notice the claimant was allowed benefits following the end of his layoff. The issues of whether the claimant separated from work in the second quarter of 2017 and for what reason or if the claimant refused a suitable offer of work in the second quarter of 2017, are remanded to the Benefits Bureau for an initial investigation and determination.

DECISION:

The employer has filed a timely appeal from that Statement of Charges, as it was the first time it had notice the claimant was receiving benefits following the end of his layoff. The August 9, 2017, Statement of Charges for the second quarter of 2017 is affirmed at this time, but the employer may be entitled to a credit on a future Statement of Charges, pending the outcome of the issues remanded to the Benefits Bureau.

REMAND:

The issues of whether the claimant separated from work in the second quarter of 2017 and for what reason or if the claimant refused a suitable offer of work in the second quarter of 2017, are remanded to the Benefits Bureau for an initial investigation and determination.

Stephanie R. Callahan
Administrative Law Judge

Decision Dated and Mailed

src/scn