

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JANICE L DAVISON
Claimant

ENVIRONET INC
Employer

APPEAL 18A-UI-07893-SC-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 06/04/17
Claimant: Respondent (1)

Iowa Code § 96.7(2)a(6) – Appeal from the Statement of Charges

STATEMENT OF THE CASE:

Environet, Inc. (employer) filed an appeal from the Statement of Charges dated July 16, 2018, for the first quarter of 2018. A hearing was held on August 20, 2018, pursuant to due notice. Janice L. Davison (claimant) participated personally. The employer participated through Founder/Owner/President Mary Newell. The administrative law judge took official notice of the administrative record.

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 facts of this case are largely uncontested. The claimant filed a claim for benefits effective June 4, 2017. On June 6, a notice of claim was mailed to the employer's address of record. The employer protested the claim for benefits on June 12.

On June 20, an unemployment insurance decision, reference 01, denying the claimant unemployment insurance benefits was mailed to both parties. The claimant appealed that decision and a hearing was held on July 17. On June 18, the administrative law judge reversed the unemployment insurance decision and allowed the claimant to receive benefits. See Appeal 17A-UI-06565-NM-T. The employer appealed the decision to the Employment Appeal Board (EAB) who affirmed the administrative law judge's decision. See Hearing Number 17B-UI-06565. The employer did not appeal the decision to district court and the EAB decision has become final agency action.

The employer received a Statement of Charges for the third quarter of 2017 and filed an appeal. A hearing was held on December 27, 2017. The administrative law judge affirmed the Statement of Charges pending the outcome of the newly raised, remanded issue of whether the claimant was able to work, available for work, and actively and earnestly seeking work. See Appeal 17A-UI-12213-SC-T.

On January 12, 2018, a fact-finding interview was held regarding the issues on remand. On January 17, an unemployment insurance decision, reference 07, found the claimant was able to work, available for work, and actively and earnestly seeking work. A copy of the decision was mailed to both parties and contained a warning that the decision would become final unless an appeal was postmarked or received by January 28. The employer did not appeal the decision and it has become final agency action.

On February 9, 2018, a Statement of Charges for the fourth quarter of 2017 was mailed to the employer. The employer did not file an appeal to that Statement of Charges. On July 16, a Statement of Charges was mailed to the employer for the first quarter of 2018. The employer appealed that Statement of Charges on July 24, as it still protests the claimant's receipt of benefits. However, the employer had no information about the claimant's claim which had not previously been addressed by the agency.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the employer's protest to the Statement of Charges is not timely as the employer had prior notice of the claim.

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.]

The employer's appeal to the Statement of Charges is not timely because the employer had prior notice and opportunity to protest the claimant's receipt of benefits. The ability to file an appeal to the Statement of Charges is only applicable when a prior opportunity to protest the claimant's receipt of benefits was not provided. As the appeal is not timely, the Statement of Charges is correct.

DECISION:

The July 16, 2018, Statement of Charges for the first quarter of 2018 is affirmed. The employer did not timely file an appeal from the Statement of Charges as it had prior notice and opportunity to protest the claimant's receipt of benefits.

Stephanie R. Callahan
Administrative Law Judge

Decision Dated and Mailed

src/scn