

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JEREMIAH A BROWN
Claimant

L A LEASING INC
Employer

APPEAL 18A-UI-09134-DB-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 03/04/18
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 participated personally. 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 March 4, 2018. An unemployment insurance decision was issued on August 22, 2018 (reference 05) which held that the claimant was eligible for benefits and that the employer would not be charged for benefits paid due to claimant leaving this employer for the sole purpose of accepting employment with a new employer. The administrative records for the claimant establish that no appeal was filed from this decision.

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 August 22, 2018 found that the claimant was eligible for benefits and that the employer's account would not be charged for benefits paid. See Unemployment Insurance Decision issued August 22, 2018 (reference 05). 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. Claimant remains eligible for benefits and the employer's account shall not be charged for benefits paid pursuant to the decision issued on August 22, 2018 (reference 05).

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. Benefits are allowed, provided claimant is otherwise eligible. The account of the employer shall not be charged for benefits paid.

Dawn Boucher
Administrative Law Judge

Decision Dated and Mailed

db/rvs