

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ADAM A HINES
Claimant

APPEAL 18A-UI-03404-SC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

LUMBER SPECIALTIES-US LBM LLC
Employer

OC: 02/05/17
Claimant: Respondent (4)

Iowa Code Chapter 96 – Requalification
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:

Lumber Specialties-US LBM, LLC (employer) filed an appeal from the Statement of Charges dated February 9, 2018, for the fourth quarter of 2017. A hearing was held on April 9, 2018, pursuant to due notice. Adam A. Hines (claimant) did not respond to the hearing notice and did not participate. The employer participated through HR and Accounting Supervisor Wendy Hawkins. The Department's Exhibits D1 through D3 were admitted. The administrative law judge took official notice of the administrative record, specifically the claimant's database readout history (DBIN) and wage history (WAGEA).

ISSUE:

Did the employer file a timely appeal from the Statement of Charges?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant filed his original claim for benefits effective February 5, 2017, when he was temporarily laid off. The claimant's weekly benefit amount (WBA) for the claim was \$372.00. A notice of claim was mailed to the employer on February 9, 2017, and the employer responded that it was not protesting the receipt of benefits.

The employer contacted the claimant to return to work on or about February 21, 2017. The claimant declined to return to work as he had a new job. In the second, third, and fourth quarters of 2017, the claimant earned insured wages more than ten times his WBA from the subsequent employer.

On November 19, 2017, the claimant reactivated his claim for benefits. The employer's first notice of the claimant's claim for benefits following his reactivation of the claim was the receipt of the Statement of Charges mailed February 9, 2018, for the fourth quarter of 2017. The employer filed its appeal of that Statement of Charges on March 9, 2018.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the employer filed a timely appeal from the Statement of Charges and the claimant has requalified for benefits. Benefits are allowed and the employer's account shall not be charged.

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 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 30 days of the notice that its account would be charged following the claimant's reactivation of his claim. The claimant has requalified for benefits effective November 19, 2017. Accordingly, benefits are allowed and the account of the employer shall not be charged.

DECISION:

The February 9, 2018, Statement of Charges for the fourth quarter of 2017 is modified in favor of the appellant, which will appear as a credit to the employer's account on a subsequent Statement of Charges. The employer has filed a timely appeal from that Statement of Charges. The claimant has requalified for benefits effective November 19, 2017. Benefits are allowed, provided the claimant is otherwise eligible. The account of the employer shall not be charged and a credit shall be issued on a subsequent Statement of Charges.

Stephanie R. Callahan
Administrative Law Judge

Decision Dated and Mailed

src/scn