

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

SETH D ARMSTRONG
Claimant

PRECISION LAWN CARE
Employer

APPEAL 18A-UI-11273-SC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 12/24/17
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:

Precision Lawn Care (employer) filed an appeal from the Statement of Charges dated November 9, 2018, for the third quarter of 2018. A hearing was held on December 5, 2018, pursuant to due notice. Seth D. Armstrong (claimant) did not respond to the hearing notice and did not participate. The employer participated through Owner Richard Wales. The Department's Exhibits D1 through D4 were received.

ISSUES:

Was the employer's protest timely?
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 a claim for benefits effective December 24, 2017, following a temporary layoff. The notice of claim was mailed to the employer's address of record on December 27, 2017. The employer did not receive that notice.

The claimant separated from employment on or about June 22, 2018. On August 9, 2018, the Statement of Charges for the second quarter of 2018 was mailed to the employer's last known address. The employer did not receive the second quarter Statement of Charges.

The first notice of the claimant's claim for benefits was the receipt of the Statement of Charges mailed November 9, 2018, for the third quarter of 2018. The employer filed its appeal of that Statement of Charges on November 16, 2018. Whether the claimant's separation qualifies him for benefits chargeable to the employer's account has not yet been investigated or adjudicated by the Benefits Bureau of IWD.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the employer filed a timely appeal to the Statement of Charges.

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

Filing – determination – appeal.

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:

Employer contribution and reimbursements.

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 did not receive the notice of claim or the second quarter Statement of Charges indicating the claimant had filed a claim for benefits. The employer's appeal of the November 9, 2018, Statement of Charges within thirty days is timely.

The issue of whether the claimant's separation on or about June 22, 2018 qualifies him for benefits chargeable to the employer's account is remanded to the Benefits Bureau of IWD for an initial investigation and determination.

DECISION:

The November 9, 2018, Statement of Charges for the third quarter of 2018 is affirmed pending the outcome of the remanded issue. The employer has filed a timely appeal from that Statement of Charges, as the notice of claim and second quarter Statement of Charges were not received.

REMAND:

The issue of whether the claimant's separation on or about June 22, 2018 qualifies him for benefits chargeable to the employer's account is remanded to the Benefits Bureau of IWD for an initial investigation and determination.

Stephanie R. Callahan
Administrative Law Judge

Decision Dated and Mailed

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