

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

ANDY C MAYBERRY
Claimant

GREEN BUICK GMC INC
Employer

APPEAL NO. 11A-UI-06231-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 07/25/10
Claimant: Respondent (2)**

871 IAC 23.49(9)a, b – Combined Wage Claim/Transfer of Wages

STATEMENT OF THE CASE:

The employer appealed a department representative's decision dated May 3, 2011, reference 01, that denied it a relief of charges for the claimant's July 25, 2010 unemployment claim. A hearing was held on June 6, 2011. The claimant did not participate. Deborah Brown, Payroll Administrator, participated for the employer.

ISSUE:

The issue is whether the employer may be granted a relief of benefit charges.

FINDINGS OF FACT:

The administrative law judge having heard the testimony of the witness, and having considered the evidence in the record, finds that: The claimant worked for Illinois employer John Keady Inc until November 6, 2009. The Iowa employer acquired the business beginning November 7, 2009. The claimant failed to report for work with the Iowa employer, and has never earned any wages from employment with it.

The department interstate claims unit mailed a notice of a combined wage claim to the Iowa employer on July 30, 2010. The employer responded with a faxed protest on August 7 that was acknowledged as received. The employer protested that claimant never worked for it. The department record shows no benefit payment to claimant.

The claimant was not available when called for the hearing.

REASONING AND CONCLUSIONS OF LAW:

871 IAC 23.43(9) provides in part:

(9) Combined wage claim transfer of wages.

a. Iowa employers whose wage credits are transferred from Iowa to an out-of-state paying state under the interstate reciprocal benefit plan as provided in Iowa Code §

96.20, will be liable for charges for benefits paid by the out-of-state paying state, but no reimbursement so payable shall be charged against a contributory employer's account for the purpose of section 96.7, unless wages so transferred are sufficient to establish a valid Iowa claim, and that such charges shall not exceed the amount that would have been charged on the basis of a valid Iowa claim. However, an employer who is required by law or by election to reimburse the trust fund will be liable for charges against the employer's account for benefits paid by another state as required in section 96.8(5), regardless of whether the Iowa wages so transferred are sufficient or insufficient to establish a valid Iowa claim....

The administrative law judge concludes that the employer filed a timely protest to claimant's combined wage unemployment claim, and it is granted a relief of charges.

The claimant never worked for the Iowa employer though it acquired the Illinois employer business beginning November 7, 2009. The employer filed a timely protest with the department that claimant did not perform work for it in the state of Iowa. Since the employer would not be liable for Iowa benefit charges, it is not liable for charges in Illinois.

DECISION:

The decision of the department representative dated May 3, 2011, reference 01, is reversed. The employer is granted a relief of charges from claimant's July 25, 2010 claim.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/pjs