

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

CUONG T TRAN
Claimant

APPEAL 21A-UI-02726-CL-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

NETWORK IMAGING SOLUTIONS LLC
Employer

OC: 04/05/20
Claimant: Respondent (4)

Iowa Code § 96.6(2) – Timeliness of Protest

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

Iowa Admin. Code r. 871-23.43(9)a – Combined Wage Claim Relief of Charges

STATEMENT OF THE CASE:

On December 9, 2020, employer filed an appeal from the statement of charges dated November 9, 2020 for the third quarter of 2020. No hearing was scheduled or held, as there was sufficient evidence in the appeal letter and administrative record to resolve the matter without testimony.

ISSUES:

Did the employer file a timely appeal from the statement of charges?
Can the employer be relieved of charges on a combined wage claim?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant filed a combined wage claim for unemployment insurance benefits in the state of Texas effective April 5, 2020. Iowa Workforce Development (IWD) mailed a notice of wage transfer to the employer's address of record on May 4, 2020. The notice of wage transfer states the employer must file a protest within ten days to have its account relieved of charges.

The employer did not receive the notice. The employer's first notice that their account had not been relieved of benefits was the receipt of the statement of charges mailed November 9, 2020, for the third quarter of 2020. The employer filed its appeal of the statement of charges on December 9, 2020. Employer is requesting that charges be relieved on the basis that claimant voluntarily resigned to move to another locality on August 16, 2019.

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. Whether benefits are allowed will be determined by the state of Texas, where the claimant filed the claim; however, the employer's account in the state of Iowa 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.

Iowa Admin. Code r. 871-23.43(9)(a) and (b) provide:

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 section 96.20 will be liable for charges for benefits paid by the out-of-state paying state. No reimbursement so payable shall be charged against a contributory employer's account for the purpose of Iowa Code section 96.7, unless wages so transferred are sufficient to establish a valid Iowa claim, and 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 Iowa Code section 96.8(5), regardless of whether the Iowa wages so transferred are sufficient or insufficient to establish a valid Iowa claim. Benefit payments shall be made in accordance with the claimant's eligibility under the paying state's law. Charges shall be assessed to the employer which are based on benefit payments made by the paying state.

b. The Iowa employer whose wage credits have been transferred and who has potential liability will be notified that the wages have been transferred, the state to which they have been transferred, and the mailing address to which a protest of

potential charges may be mailed. This protest must be postmarked or received by the department within ten days of the date on the notice to be considered as a timely protest of charges. If the protest from either the reimbursable or contributory employer justifies relief of charges, charges shall go to the balancing account.

The employer filed the appeal to the statement of charges within 30 days and had no prior notice of the claim. Therefore, its appeal shall be accepted as timely.

The employer has provided sufficient information regarding the separation to be relieved of charges on this combined wage claim since it would have been relieved of charges based upon this fact scenario on an Iowa claim. (See Iowa Code § 96.5(1) and Iowa Admin. Code r 871-24.25(2), which state a claimant will not be eligible for unemployment insurance benefits in Iowa if they voluntarily quit to move to another locality.) The claimant's qualification and eligibility shall be determined by the state of Texas, where the claim was filed.

DECISION:

The November 9, 2020, statement of charges for the third quarter of 2020 is modified in favor of the appellant. The employer has filed a timely appeal from the statement of charges as it did not receive a notice of wage transfer. The account of the employer shall be relieved of charges based on benefits paid by another state. The claimant's qualification and eligibility shall be determined by the state of Texas, where the claim was filed.



Christine A. Louis
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515)478-3528

March 12, 2021
Decision Dated and Mailed

cal/scn