

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

STARLA J STRUCK
Claimant

APPEAL NO. 06A-UI-11442-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

DENISON NEWSPAPERS INC
BEN FRANKLIN
Employer

OC: 01/29/06 R: 01
Claimant: Respondent (4)

Section 96.6-2 – Timely Protest
Section 96.5-1-a – Quit for Other Employment

STATEMENT OF THE CASE:

Denison Newspapers, Inc. filed a timely appeal from a third quarter 2006 Statement of Charges that included charges of \$995.75 to its account because of unemployment insurance benefits paid to Starla J. Struck. After due notice was issued, a telephone hearing was held December 22, 2006 with Ms. Struck participating. President Richard Knowles and Store Manager Cindy Graham participated for the employer.

ISSUES:

Does the administrative law judge have jurisdiction to rule on the merits of this case?

Can the employer be relieved of charges?

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: On February 6, 2006, Iowa Workforce Development mailed a Notice of Claim to TS & B, LLC, doing business as Ben Franklin, 1403 Broadway, Denison, Iowa 51442. Denison Newspapers, Inc. had become the successor to TS & B by that date. It operates at the same address. The employer did not receive the Notice of Claim. It first learned of Ms. Struck's claim when it received its Statement of Charges for the third quarter of 2006. It promptly filed an appeal from that Statement of Charges.

Starla J. Struck voluntarily left employment at Ben Franklin on February 6, 2005 in order to accept employment with Check Into Cash of Iowa. She worked for that employer until the first quarter of 2006.

REASONING AND CONCLUSIONS OF LAW:

The first question is whether the administrative law judge has jurisdiction to rule on the merits of this case. He does. The evidence establishes that the employer did not receive the Notice of

Claim mailed in February 2006 and that it promptly appealed the first Statement of Charges reflecting charges for benefits paid to Ms. Struck. Under these circumstances, the administrative law judge has jurisdiction to rule on the merits of the case. See Iowa Code section 96.7-2-a-6.

The remaining issue concerns the unemployment insurance consequences of Ms. Struck's separation from employment on February 6, 2005. For the reasons which follow, the administrative law judge concludes that the claimant is entitled to receive unemployment insurance benefits but that Denison Newspapers, Inc. shall not be charged with those benefits.

Iowa Code section 96.5-1-a provides:

An individual shall be disqualified for benefits:

1. Voluntary quitting. If the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department. But the individual shall not be disqualified if the department finds that:

a. The individual left employment in good faith for the sole purpose of accepting other or better employment, which the individual did accept, and the individual performed services in the new employment. Benefits relating to wage credits earned with the employer that the individual has left shall be charged to the unemployment compensation fund. This paragraph applies to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

The evidence in this record establishes that Ms. Struck left her employment at Ben Franklin for the sole purposes of accepting other employment. Under these circumstances, the statute provides that the claimant shall not be disqualified for benefits based upon the separation but that the employer shall not be charged with benefits.

DECISION:

The third quarter 2006 Statement of Charges to Denison Newspaper, Inc. account 332563 is modified by removing all charges for benefits paid to Starla J. Struck. The claimant is entitled to receive unemployment insurance benefits, provided she is otherwise eligible.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

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