

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ROBERT A CANDALES
Claimant

APPEAL 20A-UI-14726-SC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

CAPITAL LANDSCAPING LLC
Employer

**OC: 01/26/20
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 November 10, 2020, Capital Landscaping LLC (employer) filed an appeal from the statement of charges dated November 9, 2020, for the third quarter of 2020. No hearing was 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: Robert A. Candales (claimant) filed a combined wage claim for unemployment insurance benefits in the state of Connecticut effective January 26, 2020. The employer contends, and agency records confirm, Iowa Workforce Development (IWD) did not mail a notice of wage transfer to the employer.

According to the employer, the claimant voluntarily quit after being reprimanded. The employer's first notice of the claim for benefits was the receipt of the statement of charges mailed November 9, for the third quarter of 2020. The employer filed its appeal of the statement of charges on November 10.

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 Connecticut, where the claimant filed the claim; regardless, 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. 871-26.4 provides, in relevant part:

2. An appeal from an initial decision concerning the allowance or denial of benefits shall be filed, by mail, facsimile, or e-mail, online, or in person, not later than ten calendar days, as determined by the postmark or the date stamp after the decision was mailed to the party at its last-known address and shall state the following:

- a. The name, address and social security number of the claimant;
- b. A reference to the decision from which appeal is taken; and,
- c. The grounds upon which the appeal is based.

3. Notwithstanding the provisions of subrule 26.4(2), a contributory employer, which has not previously received a notice of the filing of a valid claim for benefits, may appeal an individual's eligibility to receive benefits within 30 days from the mailing date of the quarterly statement of benefit charges.

4. Also notwithstanding the provisions of subrule 26.4(2), a reimbursable employer, which has not previously received a notice of the filing of a valid claim for benefits, may appeal an individual's eligibility to receive benefits within 15 days of the mailing date of the quarterly billing of benefit charges.

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 appealed the statement of charges because it did not receive a notice of wage transfer to protest. The employer filed the appeal to the statement of charges within thirty days making the appeal 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(28), which state a claimant will not be eligible for unemployment insurance benefits in Iowa if they voluntarily quit after being reprimanded.) The claimant's qualification and eligibility shall be determined by the state of Connecticut, 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, which will appear as a credit to the employer's account on a future statement of charges. The employer has filed a timely appeal from that statement of charges and a timely response to the 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 Connecticut, where the claim was filed.



Stephanie R. Callahan
Administrative Law Judge

February 03, 2021
Decision Dated and Mailed

src/ol