

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

LAZZARIA A BARNES
Claimant

PARCO LTD
Employer

APPEAL 21A-UI-11969-LJ-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 02/21/21
Claimant: Respondent (4)

Iowa Code § 96.6(2) – Timeliness of Appeal
Iowa Admin. Code r. 871-23.43(9)a – Combined Wage Claim Relief of Charges

STATEMENT OF THE CASE:

On April 12, 2021, Parco, Ltd. (employer) filed an appeal from the Iowa Workforce Development representative's decision dated April 5, 2021 (reference 01) that determined the employer would not be relieved of charges on a combined wage claim. After due notice was issued, a telephone hearing was held at 8:00 a.m. on Monday, July 19, 2021. Claimant Lazzaria A. Barnes did not register a telephone number at which to be reached and did not participate in the hearing. Employer Parco, Ltd. participated through Juliet Diaz, Human Resources. Employer's Exhibit 1 was received and admitted into the record. The administrative law judge took official notice of the administrative record.

ISSUES:

Did the employer file a timely appeal?
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: Lazzaria A. Barnes (claimant) filed a combined wage claim for unemployment insurance benefits in the state of Wisconsin effective February 21, 2021.

Iowa Workforce Development (IWD) mailed a notice of wage transfer to the employer's address of record on March 1, 2021. The notice of wage transfer states the employer must file a protest within in ten days to have their account relieved of charges. The employer responded within the timeframe. Diaz returned the completed notice of wage transfer to the agency via fax on March 4, 2021. She returned the completed separation notice via fax and U.S. mail on March 5, 2021. According to the employer, the claimant was discharged from employment for failure to follow company policy and procedures and for failure to follow management direction.

The agency next issued the decision dated April 5, 2021 (reference 01), and the employer filed the instant appeal. Claimant's name does not appear on any Statement of Charges issued to the employer since her separation date of October 29, 2019.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the employer filed a timely appeal from the April 5, 2021 (reference 01) decision. Whether benefits are allowed will be determined by the state of Wisconsin, 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 Admin. Code r. 871-23.43(9)(a) and (b) provide:

Combined wage claim transfer of wages.

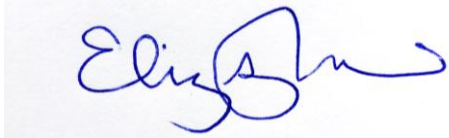
a. Iowa employers whose wage credits are transferred from Iowa to an out-of-state paying state under the interstate reciprocal benefit plan as provided in Iowa Code section 96.20 will be liable for charges for benefits paid by the out-of-state paying state. No reimbursement so payable shall be charged 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 April 5, 2021 (reference 01) decision it received stating it would not be relieved of charges within the ten-day window provided. The administrative law judge finds 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(2)a and Iowa Admin. Code r 871-24.32(1)a.) The claimant's qualification and eligibility shall be determined by the state of Wisconsin, where the claim was filed.

DECISION:

The April 5, 2021 (reference 01) decision is modified in favor of the appellant. The employer has filed a timely appeal. 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 Wisconsin, where the claim was filed.



Elizabeth A. Johnson
Administrative Law Judge

July 27, 2021
Decision Dated and Mailed

lj/mh