

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ANDREW D STABNO
Claimant

MIDWEST PROFESSIONAL STAFFING
Employer

APPEAL 21A-UI-01103-CL-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 04/05/20
Claimant: Respondent (1)

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:

The employer filed an appeal from the Statement of Charges dated November 9, 2020, for the third quarter of 2020. A hearing was scheduled and held on February 17, 2021, pursuant to due notice. Claimant participated did not register for the hearing and did not participate. Employer participated through office manager Erin Steinhart.

ISSUES:

Was the employer's protest timely?
Was the employer's appeal from the Statement of Charges timely?
Can the Iowa employer can be relieved of benefit charges on the 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 in Minnesota effective April 5, 2020. Iowa Workforce Development transferred wages to the State of Minnesota. On April 14, 2020, Iowa Workforce Development mailed a notice of wage transfer to employer. Employer did not receive the notice of wage transfer.

Employer was first notified that claimant had filed a claim for unemployment insurance benefits when it received the statement of charges mailed November 9, 2020, for the third quarter of 2020. It included charges for claimant's benefits. On November 20, 2020, employer filed an appeal.

Had employer received the notice of wage transfer, it would have protested on the basis that claimant was not able to and available for additional assignments because he moved to Minnesota on July 31, 2019. The employer does not assert claimant has a separation from employment that is disqualifying.

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.

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.

The administrative law judge concludes that the employer filed its appeal of the statement of charges within the time period prescribed by the Iowa Employment Security Law because it did not receive prior notice of the claim.

For the reasons that follow, the administrative law judge further concludes the claimant was not separated from employment for a disqualifying reason and the employer is not relieved of benefit charges.

Iowa Admin. Code r. 871-23.43(9)(a) 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 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.

If claimant does not have a disqualifying separation from employer, he only needs to be able to and available for work. He does not need to be able to and available for work in a specific location. Since employer would not be relieved of charges based upon this fact scenario on an Iowa claim, it shall not be relieved of charges on this combined wage claim. Claimant's qualification and eligibility shall be determined by the state in which the claim was filed.

DECISION:

The November 9, 2020, Statement of Charges for the third quarter of 2020 is affirmed. Although employer timely appealed the statement of charges, it has not provided a basis for protest upon which would justify relieving its account of benefit charges on a combined wage claim.



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March 2, 2021
Decision Dated and Mailed

cal/mh