

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

KAREN E GREGORY
Claimant

COUNTRY SIDE TURF & TIMBER INC
Employer

APPEAL 17A-UI-08685-DB-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 05/28/17
Claimant: Respondent (2)**

Iowa Code § 96.6(2) – Timeliness of Protest/Appeal
Iowa Code § 96.7(2)a(6) – Appeal from the Quarterly Statement of Charges

STATEMENT OF THE CASE:

The employer filed a timely appeal from the Statement of Charges dated August 9, 2017, for the second quarter of 2017. Due notice was issued and a hearing was held on September 15, 2017. The claimant did not participate. The employer participated through witnesses Harold Crosser and Donna Crosser. The administrative law judge took official notice of the claimant's unemployment insurance benefits records without objection.

ISSUES:

Did the employer file a timely protest of the claim?
Did the employer file a timely appeal from a quarterly statement of benefit charges?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds:

The claimant separated from employment on May 26, 2017. The employer timely filed its statement of protest on June 9, 2017. A decision dated June 26, 2017 (reference 02) found that the claimant was not eligible for benefits and the employer's account will not be charged. The claimant did not appeal this adverse decision and it became final agency action.

The first notice the employer received that it would be charged for benefits paid to the claimant was the receipt of the Statement of Charges mailed August 9, 2017 for the second quarter of 2017. The employer filed its timely appeal of that Statement of Charges on August 24, 2017.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes that the employer has filed a timely appeal from the second quarter of 2017 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 § 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 second quarter of 2017 Statement of Charges within the time period prescribed by Iowa Code § 96.7(2)a(6) because the Statement of Charges was the first time that the employer was notified that it would be charged for benefits paid to claimant. The agency's previous decision dated June 26, 2017 (reference 02) found that the employer would not be charged for benefits. The employer's appeal of the second quarter of 2017 Statement of Charges within thirty days is timely. The Statement of Charges is inconsistent with the agency's previous decision finding that the employer will not be charged for benefits. Accordingly, the account of the employer shall not be charged for benefits.

DECISION:

The Statement of Charges dated August 9, 2017 for the second quarter of 2017 is reversed. The employer has filed a timely appeal from the second quarter of 2017 Statement of Charges. The account of the employer shall not be charged.

Dawn Boucher
Administrative Law Judge

Decision Dated and Mailed

db/rvs