

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

TIMOTHY A HARPER
Claimant

CLARION PACKAGING LLC
Employer

APPEAL 18A-UI-08691-DB-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 12/17/17
Claimant: Respondent (4)

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 an appeal from the Statement of Charges dated August 9, 2018, for the second quarter of 2018. Due notice was issued and a hearing was held on September 7, 2018. The claimant did not participate. The employer participated through witness Brenda Branca. Employer Exhibit 1 was admitted. The administrative law judge took official notice of the claimant's unemployment insurance benefits records.

ISSUES:

Did the employer file a timely protest of the claim and 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 September 26, 2016. A decision dated December 28, 2017 (reference 01) found that the claimant was eligible for benefits and the employer's account will not be charged because claimant had earned ten times his weekly benefit amount after the disqualifying separation from the employer.

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 for the first quarter of 2018. The employer filed its timely appeal of that Statement of Charges on July 11, 2018, when it sent an email to Iowa Workforce Development protesting the charges on the statement. See Exhibit 1. This employer was told that a credit of \$35.59 would be added to the second quarter statement of charges in a reply email on July 11, 2018. See Exhibit 1.

No credit was issued on the second quarter of 2018 Statement of Charges. Further, additional charges were issued to the employer's second quarter of 2018 Statement of Charges in the amount of \$427.22. The employer filed a timely appeal to the second quarter of 2018 Statement of Charges on August 16, 2018. See Appeal Email dated August 16, 2018.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes that the employer has filed a timely appeal from the second quarter of 2018 Statement of Charges ending June 30, 2018 and the second quarter of 2018 Statement of Charges should be modified in favor of the appellant to remain consistent with the previous agency decision.

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 first quarter of 2018 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 employer relied on the agency's previous decision dated December 28, 2017 (reference 01) which found that the employer would not be charged for benefits paid because the claimant had earned ten times his weekly benefit amount since the disqualifying separation from this employer.

The employer's appeal of the first quarter of 2018 Statement of Charges on July 11, 2018 was timely. Further, the employer's appeal of the second quarter of 2018 Statement of Charges on August 16, 2018 was timely.

The Statement of Charges is inconsistent with the agency's previous decision. The administrative law judge further concludes that the claimant has requalified for benefits since the separation from this employer. Accordingly, benefits are allowed and the account of the employer shall not be charged.

DECISION:

The Statement of Charges dated August 9, 2018 for the second quarter of 2018 is modified in favor of the appellant/employer. The employer has filed a timely appeal from that Statement of Charges. The claimant has requalified for benefits since the separation. Benefits are allowed, provided the claimant is otherwise eligible. The account of the employer shall not be charged, consistent with previous agency decision dated December 28, 2017 (reference 01).

Dawn Boucher
Administrative Law Judge

Decision Dated and Mailed

db/rvs