

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JESSE T WELLS
Claimant

ADVANCE SERVICES INC
Employer

APPEAL 17A-UI-08441-SC-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 05/14/17
Claimant: Respondent (2)

Iowa Code § 96.7(2)a(6) – Appeal from the Statement of Charges

STATEMENT OF THE CASE:

Advance Services, Inc. (employer) filed an appeal from the Statement of Charges dated August 9, 2017, for the second quarter of 2017. A hearing was scheduled and held on September 15, 2017, pursuant to due notice. Jesse T. Wells (claimant) participated. The employer participated through Risk Management Melissa Lewien. Department's Exhibits D-1 and D-2 were received. Official notice was taken of the administrative record and prior decisions, specifically the employer's protest, the Unemployment Insurance Decision dated June 14, 2017, reference 02, and the administrative law judge's decision in appeal 17A-UI-06190-DL-T.

ISSUES:

Was the employer's appeal from the Statement of Charges timely?

Is the Statement of Charges correct?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant separated from employment on May 10, 2017. He opened his claim for benefits effective the week of May 14, 2017. The employer received the Notice of Claim via its SIDES account on May 19, 2017. The employer timely protested the claimant's claim for benefits on May 31, 2017.

On June 14, 2017, after a fact-finding interview was held, Iowa Workforce Development (IWD) issued a decision that allowed the claimant to receive benefits and stated the employer's account would be charged. The employer appealed the decision, and following a hearing, the administrative law judge reversed the decision on July 6, 2017. The administrative law judge determined the claimant's separation was disqualifying, the claimant had to repay the benefits he received, and the employer would not be charged for the claimant's benefits. The claimant did not appeal the decision to the Employment Appeal Board.

On August 9, 2017, IWD mailed the employer a Statement of Charges for the second quarter of 2017. The statement included charges to the employer's account based on the claimant's claim for benefits. On August 17, 2017, the employer filed an appeal from the Statement of Charges related to the claimant's claim.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the employer's appeal to the Statement of Charges is timely and the Statement of Charges is not correct.

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 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.

The employer timely filed the appeal from the Statement of Charges dated August 9, 2017 because the appeal was filed within in 30 days of the first notice the employer had that its account was being charged for the claimant's benefits. IWD determined the employer should not be charged for the claimant's benefits based on his separation during the second quarter of 2017. That decision remains in effect as the claimant has not appealed the decision to the Employment Appeal Board. Therefore, the Statement of Charges is not correct.

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 that Statement of Charges as the appeal was filed within 30 days of the first time the employer had notice its account was being charged. The Statement of Charges is not correct as the claimant is currently not eligible to receive benefits until he earns ten times his weekly benefit amount in insured wages.

Stephanie R. Callahan
Administrative Law Judge

Decision Dated and Mailed

src/scn