

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ALISON JOSEPH
Claimant

TEMP ASSOCIATES-IOWA INC
Employer

APPEAL 18A-UI-03419-SC-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 06/25/17
Claimant: Respondent (4)

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

STATEMENT OF THE CASE:

Temp Associates-Iowa, Inc. (employer) filed an appeal from the Statement of Charges dated February 9, 2018, for the fourth quarter of 2017. A hearing was held on April 11, 2018, pursuant to due notice. Alison Joseph (claimant) did not respond to the hearing notice and did not participate. The employer participated through Branch Manager Sherry Savely. The Department's Exhibits D1 through D3 were admitted into the record.

ISSUES:

Was the employer's protest timely?

Was the employer's appeal from the statement of charges timely?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant separated from the employer on September 13, 2016. He filed a claim for unemployment insurance benefits effective June 25, 2017 and his weekly benefit amount (WBA) is \$461.00. The administrative record shows the claimant earned more than \$4,610.00 in insured wages between September 13, 2016 and June 25, 2017.

The notice of claim was mailed to the employer's address of record, its corporate office in Muscatine, on July 5, 2017. Mike, the person who handles unemployment insurance correspondence, did not receive the notice of claim and, as a result, it was not sent to Branch Manager Sherry Savely to protest the claim for benefits. The first notice of the claimant's claim for benefits was the receipt of the Statement of Charges mailed February 9, 2018, for the fourth quarter of 2017. The employer filed its appeal of that Statement of Charges on February 14, 2018.

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 and the claimant has requalified for benefits. Benefits are allowed and the employer's account 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 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 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 the notice of claim indicating the claimant had filed a claim for benefits and filed the appeal within 30 days of the first notice it received. The claimant has requalified for benefits since the separation from this employer by earning ten times his weekly benefit amount in insured wages after the separation and before filing his claim for unemployment insurance benefits. Accordingly, benefits are allowed and the account of the employer shall not be charged.

DECISION:

The February 9, 2018, Statement of Charges for the fourth quarter of 2017, is modified in favor of the appellant, which will appear as a credit to the employer's account on a subsequent Statement of Charges. The employer has filed a timely appeal from that Statement of Charges, as the notice of claim was not received. 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 and a credit shall be issued on a subsequent Statement of Charges.

Stephanie R. Callahan
Administrative Law Judge

Decision Dated and Mailed

src/scn