

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

DELBERT KIRSCHBAUM
Claimant

APPEAL NO. 07A-UI-03084-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

USA STAFFING, INC.
LABOR WORLD OF IOWA
Employer

OC: 12/03/06 R: 02
Claimant: Respondent (4)

Section 96.7-2-a-2 – Appeal from Statement of Charges

STATEMENT OF THE CASE:

The employer filed a timely appeal from an unemployment insurance decision dated March 15, 2007, reference 02, that allowed benefits to the claimant but declined to relieve the employer of charges for benefits upon a finding that the employer had not filed a timely protest. Due notice was issued for a telephone hearing to be held April 13, 2007. After a review of all matters of record, a formal hearing was not required.

ISSUE:

Can the employer be relieved of charges?

FINDINGS OF FACT:

Having examined all matters of record, the administrative law judge finds: The claimant has filed an original claim for unemployment insurance benefits. USA Staffing, Inc. is a base period employer. USA Staffing, Inc. did not receive the Notice of Claim sent to it by the agency. It has filed a timely appeal from the first quarterly statement of charges showing benefits being paid to the claimant. After leaving work with USA Staffing, Inc. but before filing the original claim for unemployment insurance benefits, the claimant earned ten times his weekly benefit amount in wages for insured work with other employers.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the administrative law judge has authority to relieve the employer of charges for benefits paid to the claimant. He concludes that he does. Iowa Code section 96.7-2-a-2 allows an employer who has not received prior notification of a claim for benefits to file an appeal from a statement of charges. The evidence before the administrative law judge persuades him that USA Staffing, Inc. did not receive the Notice of Claim involving this claimant. Since the employer has filed a timely appeal from the statement of charges, the statute gives the administrative law judge authority to consider the merits of this case.

Having examined agency benefit payment records and wage records, the administrative law judge concludes that the claimant should not be disqualified for benefits based on this separation but that this employer should be relieved of charges.

DECISION:

The unemployment insurance decision dated March 15, 2007, reference 02, is modified. The claimant is entitled to receive unemployment insurance benefits, provided he is otherwise eligible. No benefits shall be charged to the account of USA Staffing, Inc.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs