

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ROBERT B MCGREGOR
Claimant

M & M CARTAGE INC
Employer

APPEAL 19A-UI-01649-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 06/10/18
Claimant: Respondent (2)**

Iowa Code § 96.7(2)a(2) – Statement of Charges

STATEMENT OF THE CASE:

The employer filed an appeal from the fourth quarter 2018 statement of charges mailed to them on February 8, 2019. The parties were properly notified about the hearing. A telephone hearing was scheduled to be held on March 11, 2019. Claimant was to participate. Employer was to participate. A review of agency records and those of the Employment Appeal Board made clear that no hearing was necessary and no hearing was held. Official notice was taken of agency records

ISSUE:

Should the statement of charges be reversed so as to be consistent with action taken by the Employment Appeal Board?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: In appeal number 18A-UI-11199-DB-T an administrative law judge determined that the claimant was not able to and available for unemployment insurance benefits from June 10, 2018 through December 1, 2018. The claimant appealed to the Employment Appeal Board. On January 9, 2019 the Board issued a decision in 19B-UI-11199 affirming the administrative law judge's decision in its entirety. In the meantime on December 17, 2018 the agency issued a decision (reference 05) finding the claimant overpaid unemployment insurance benefits in the amount of \$11,375.00 for the twenty-five week period beginning June 17, 2018 and ending December 8, 2018 due to the administrative law judge's decision which found the claimant not able to and available for work. The overpayment decision was not appealed to the Employment Appeal Board and has become final. In the agency overpayment records, (Great Plains System) the claimant is shown as being overpaid \$11,375.00.

The employer is entitled to relief of charges based upon the Employment Appeal Board's decision in 19B-11199.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the representative's decision should be reversed.

Generally, courts and administrative tribunals do not decide issues when the underlying controversy is moot. *Rhiner v. State*, 703 N.W.2d 174, 176 (Iowa 2005). "A case is moot if it no longer presents a justiciable controversy because the issues involved are academic or nonexistent." *Iowa Bankers Ass'n v. Iowa Credit Union Dep't*, 335 N.W.2d 439, 442 (Iowa 1983).

The claimant has been found not to be able to and available for benefits by a Board decision that has not been appealed to the Iowa District Court. He has been found to be overpaid unemployment insurance benefits in the amount of \$11,375.00. The appeal to the statement of charges for the fourth quarter of 2018 cannot affect those decisions. The agency regularly and routinely relieves an employer of benefit charges to their account when an employee is ineligible for benefits. The agency will recover the benefits from the claimant. To allow the agency to charge the employer and to recover the benefits from the claimant would amount to double dipping. The employer's account shall be relieved of charges on their next quarterly statement of charges.

DECISION:

The fourth quarter 2018 statement of charges mailed on February 8, 2019 is reversed. The employer shall be given a credit on their next quarterly statement of charges.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/rvs