

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

NATHANIEL J CUNNINGHAM
Claimant

BRAET'S SERVICE LLC
Employer

APPEAL 18A-UI-08497-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 12/17/17
Claimant: Respondent (1)

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

STATEMENT OF THE CASE:

The employer filed an appeal from the statement of charges dated July 16, 2018, for the first quarter of 2018. The parties were properly notified of the hearing. A telephone hearing was held on August 29, 2017. The claimant did not participate. The employer participated through Dirk Braet, Owner. The administrative law judge took official notice of the claimant's unemployment insurance benefits records including the fact-finding documents.

ISSUES:

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 issue as to whether the employer filed a timely notice of protest had been resolved in companion case 18A-UI-08496-H2T. It was found that the employer did not file a timely notice of protest.

On July 16, 2018, Iowa Workforce Development ("IWD") mailed the employer a first quarter 2018 statement of benefit charges notifying the employer that the benefits paid to claimant and charged to the employer's account were \$236.76 for the quarter ending March 31, 2018. The notice was sent to the employer's address of record and was received by the employer. The employer filed an appeal to the statement of charges on August 8, 2018.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes as follows:

Because the protest was untimely, there is no jurisdiction to make a decision regarding the claimant's eligibility for benefits. *Id.*; *Franklin v. IDJS*, 277 N.W.2d 877 (Iowa 1979). The result in this case is reinforced by Iowa Code § 96.7(2)a(6), which states as follows:

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.

An employer is only allowed to appeal to the department for a hearing to determine the eligibility of the individual to receive benefits if they were not previously notified pursuant to Iowa Code § 96.6(2) of the notice of claim. In this case, the employer did receive the notice of claim and responded after the due date. As such, the conditions for appealing the statement of charges under Iowa Code § 96.7(2)a(6) have not been met.

DECISION:

The employer has failed to file a timely appeal to the statement of charges as they did not file a timely protest. The employer has not met the conditions for appealing the statement of charges under Iowa Code § 96.7(2)a(6). The charges for the first quarter of 2018 shall remain in full force and effect.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/rvs