

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ROBERTO A ZAVALA
Claimant

BLUE ROOF LLC
Employer

APPEAL 18A-UI-11115-SC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 12/17/17
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:

Blue Roof, LLC (employer) filed an appeal from the Statement of Charges dated November 9, 2018, for the third quarter of 2018. A hearing was held on November 30, 2018, pursuant to due notice. Roberto A. Zavala (claimant) did not respond to the hearing notice and did not participate. The employer participated through Owner Lisa Roberson. The Department's Exhibits D1 and D2 were received. The administrative law judge took official notice of the administrative record, specifically the claimant's database readout (DBRO) and wage history (WAGE-A).

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 employment with the employer on May 24, 2017. The claimant filed a claim for benefits effective December 17, 2017 and his weekly benefit amount is \$183.00. The administrative record shows the claimant earned more than \$1,830.00, or ten times his weekly benefits amount, between his separation from the employer and the date he filed his claim for unemployment insurance benefits.

Iowa Workforce Development (IWD) mailed the notice of claim to the employer's address of record on December 19, 2017. The employer did not receive that notice. The first notice of the claimant's claim for benefits was the receipt of the Statement of Charges mailed November 9, 2018 for the third quarter of 2018. The employer filed its appeal of that Statement of Charges on November 13, 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 giving it an opportunity to protest the claimant's receipt of benefits chargeable to its account. The employer filed its appeal to the Statement of Charges within thirty days making the appeal timely. The claimant has requalified for benefits since the separation from this employer by earning ten times his weekly benefit amount in insured wages following the separation. See Iowa Code §§ 96.5(1)g and 96.5(2)a. Accordingly, benefits are allowed and the account of the employer shall not be charged.

DECISION:

The November 9, 2018, Statement of Charges for the third quarter of 2018 is modified in favor of the appellant, which will appear as a credit to the employer's account on the next 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 its next Statement of Charges.

Stephanie R. Callahan
Administrative Law Judge

Decision Dated and Mailed

src/scn