

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

TRE S HONSEY
Claimant

APPEAL 17A-UI-05386-SC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

NORTHAIRE ENGINEERING
Employer

**OC: 03/20/16
Claimant: Respondent (1)**

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

STATEMENT OF THE CASE:

Northaire Engineering (employer) filed an appeal from the Statement of Charges dated May 9, 2017 for the first quarter of 2017. A hearing was scheduled and held on June 19, 2017, pursuant to due notice. The claimant did not respond to the hearing notice and did not participate. The employer participated through President Paul Bower. Department's Exhibits D1 through D5 were received.

ISSUE:

Is the employer's protest timely?

Is 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 notice of wage transfer was mailed to the employer's address of record on March 31, 2016. (Department's Exhibit D1.) The employer received the notice but did not protest the claimant's claim for benefits at that time. The employer received the Statement of Charges mailed on November 9, 2016 for the third quarter of 2016. (Department's Exhibit D2). It received the Statement of Charges mailed on February 9, 2017 for the fourth quarter of 2016. (Department's Exhibit D4). The employer also received a Statement of Charges mailed on May 9, 2017 for the first quarter of 2017. (Department's Exhibit D5). Each Statement of Charges contained notice that an appeal must be filed within 30 days of the mailing date. The employer filed its first appeal or protest to the claimant's receipt of benefits on May 22, 2017. (Department's Exhibit D3).

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that employer did not file a timely protest to the claimant's receipt of benefits or properly appeal the Statement of Charges.

Iowa Code § 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 § 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 claimant filed his claim for benefits the week of March 20, 2016. The employer received notice of a transfer of wages and was given the opportunity to protest the claimant's receipt of benefits on March 31, 2016. The employer did not send back that document or provide a good cause reason for its failure. The delay was not due to any agency error or misinformation or delay or other action of the United States Postal Service pursuant to Iowa Admin. Code r. 871-24.35(2). The employer did not file a timely protest to the claimant's receipt of benefits.

The employer is not eligible to file an appeal to the May 9, 2017 Statement of Charges for the first quarter of 2017. An employer who has not received previous notice of allowance of benefits to an employee may appeal the Statement of Charges. Iowa Code § 96.7(2)a(6). In this case, the employer received notice of wage transfer mailed on March 31, 2016, the November 9, 2016 Statement of Charges, and February 9, 2017 Statement of Charges putting it on notice that the claimant was receiving benefits. As the employer had notice of the claimant's claim for benefits prior to the May 9, 2017 Statement of Charges, it cannot now appeal this Statement of Charges.

DECISION:

The May 9, 2017, Statement of Charges is affirmed. The employer did not properly file an appeal to the first quarter 2017 Statement of Charges. The charges shall remain in full force and effect.

Stephanie R. Callahan
Administrative Law Judge

Decision Dated and Mailed

src/rvs