

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JOHN M HAWKINS
Claimant

B R STORES INC
Employer

APPEAL 18A-UI-08724-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 10/29/17
Claimant: Respondent (4)

Iowa Code Chapter 95 – Requalification
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:

The employer filed an appeal from the Statement of Charges dated August 9, for the second quarter of 2018. A hearing was scheduled to be held on September 6, 2018, pursuant to due notice. No hearing was held as there was sufficient evidence in the appeal letter and accompanying documents and agency records to resolve the matter without testimony.

ISSUE:

Did the employer file a timely appeal to the second quarter 2018 Statement of Charges?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: A decision has been issued on the employer's appeal to the fourth quarter 2017 statement of charges and the first quarter 2018 Statement of Charges with regard to this claimant. That decision, 18A-UI-07562-H2T concluded the employer should not be charged for benefits paid to the above claimant. Before the employer's account could be issued a credit their next Statement of Charges was printed and mailed. The employer is entitled for a credit for the above claimant for all three Statement of Charges.

The notice of claim was e-mailed to the employer's email address of record through the SIDES system on October 30, 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 February 2, 2018, for the fourth quarter of 2017. The employer filed its appeal of that Statement of Charges on February 22, 2018. That appeal was not forwarded to the appeals section until July 2018 after the employer received their Statement of Charges for the first quarter of 2018 and they again filed a timely appeal.

Employer records indicate that the claimant separated from this employer on December 9, 2016. Agency records indicate the claimant has worked for a Nebraska employer after that time period and earned over twelve thousand dollars since he separated from B R Stores, Inc. Claimant filed a claim for benefits with an effective date of October 29, 2017. The claimant has requalified for benefits since the separation from the employer by earning well over ten times his weekly benefit amount of \$455.00.

REASONING AND CONCLUSIONS OF LAW:

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 administrative law judge concludes that 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 indicating the claimant had filed a claim for benefits. The employer's appeal of the first Statement of Charges was within thirty days and is considered timely. The employer also filed a timely appeal to the second Statement of Charges sent to them for the first quarter of 2018. The employer filed a timely appeal to the third Statement of Charges sent to them for the second quarter of 2018. The administrative law judge further concludes that the claimant has requalified for benefits since the separation from this employer. Accordingly, benefits are allowed and the account of the employer shall not be charged.

The agency shall adjust the employer's Statement of Charges to show a credit during the next quarter of 2018.

DECISION:

The employer filed a timely appeal from the second quarter 2018 Statement of Charges as the Notice of Claim was not received and their timely appeal to the fourth quarter 2017 Statement of Charges was not forwarded to the Appeals section for resolution. The employer also filed a timely appeal to the second quarter Statement of Charges. The claimant has requalified for benefits since the separation. Benefits are allowed, provided the claimant is otherwise eligible. The account of this employer shall not be charged. The employer will be given a credit on their next quarterly Statement of Charges.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/rvs