

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

JOYCE E MCGOWAN
Claimant

APPEAL NO. 06A-UI-11246-MT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**WESTERN PRINT & MAIL LLC
SPEED PRINT**
Employer

**OC: 09/19/04 R: 03
Claimant: Respondent (1)**

Section 96.7-2-a(6) – Statement of Charges

STATEMENT OF THE CASE:

Employer filed an appeal from a decision of a statement of charges dated August 8, 2006, reference 01, which allegedly assessed charges for the forth quarter of 2004 and first quarter of 2005. After due notice, a telephone conference hearing was scheduled for and held on December 21, 2006. Claimant participated personally with Richard McGowan as a witness. Employer participated by Eric Pfeiffer, Member and represented by Ryan Carey, Attorney at Law. Exhibits A through F and One were admitted into evidence.

ISSUE:

The issues in this matter are whether the statement of charges is correct and whether the protest is timely.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and having considered all of the evidence in the record, finds: A statement of charges was mailed to the employer August 2006. The employer appealed the statement of charges on the basis that claimant never worked for his company. Employer purchased the assets of the company known as Speed Print #8 from a corporation owned by claimant. Claimant and her spouse, Richard McGowan, worked for Speed Print #8. Employer used the assets at the same location for one year after the sale dated May 7, 2004. Employer rented this location from Richard McGowan for a period of one year. Employer retained five of the seven Speed Print #8 employees to continue working at this same location. Claimant and her spouse quit the business after the sale.

Employer, Eric Pfeiffer, had a serious family matter that occupied most of his free time during the year 2005. Employer did not understand the problems with unemployment until he was examining his financial records in October 2006. Employer saw his unemployment contributions go up from \$500.00 the year prior to \$10,000.00 in the current year. It was employer's financial statements that prompted the appeal from an unspecified statement of charges.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.6-2 provides:

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. The representative shall promptly examine the claim and any protest, take the initiative to ascertain relevant information concerning the claim, and, on the basis of the facts found by the representative, shall determine whether or not the claim is valid, the week with respect to which benefits shall commence, the weekly benefit amount payable and its maximum duration, and whether any disqualification shall be imposed. The claimant has the burden of proving that the claimant meets the basic eligibility conditions of section 96.4. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to section 96.5, except as provided by this subsection. The claimant has the initial burden to produce evidence showing that the claimant is not disqualified for benefits in cases involving section 96.5, subsection 10, and has the burden of proving that a voluntary quit pursuant to section 96.5, subsection 1, was for good cause attributable to the employer and that the claimant is not disqualified for benefits in cases involving section 96.5, subsection 1, paragraphs "a" through "h". Unless the claimant or other interested party, after notification or within ten calendar days after notification was mailed to the claimant's last known address, files an appeal from the decision, the decision is final and benefits shall be paid or denied in accordance with the decision. If an administrative law judge affirms a decision of the representative, or the appeal board affirms a decision of the administrative law judge allowing benefits, the benefits shall be paid regardless of any appeal which is thereafter taken, but if the decision is finally reversed, no employer's account shall be charged with benefits so paid and this relief from charges shall apply to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

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.

It is held that the statement of charges is correct because employer failed to make a timely protest or appeal from the prior statements of charges. Employer received a statement of charges in the year 2005 for which a protest could have been initiated. No such protest was made until October 2006. The protest is woefully delinquent. Employer had 30 days to protest a statement of charges. Employer had two chances to appeal claimant's statement of charges

for last quarter of 2004 and first quarter in 2005. The appeal was not initiated until late 2006. Jurisdiction does not exist to determine claimant's past eligibility.

DECISION:

The statement of charges dated October, 2006, reference 01, is affirmed. The protest is not timely. The statement of charges is correct.

Marlon Mormann
Administrative Law Judge

Decision Dated and Mailed

mdm/kjw