

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

MARK W QUINDT
Claimant

MID IOWA EQUIPMENT INC
Employer

APPEAL 18A-UI-07473-SC-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 12/24/17
Claimant: Respondent (1-R)

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:

Mid Iowa Equipment, Inc. (employer) filed an appeal from the Statement of Charges dated July 6, 2018, for the first quarter of 2018. A hearing was held on August 3, 2018, pursuant to due notice. Mark W. Quindt (claimant) participated personally. The employer participated through Operations Manager Mindy Six. No exhibits were offered into the record. The administrative law judge took official notice of the administrative record.

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 works in a part-time position on an as needed basis for the employer. He last worked for the employer in January 2018. The claimant filed his claim for benefits effective December 24, 2017, after being temporarily laid off by his full-time employer.

The notice of claim was mailed to the employer's address of record on January 2, 2018. Operations Manager Mindy Six, who normally responds to claims for unemployment insurance benefits, was on vacation. Vice President Marla Vos received the notice of claim. She contacted her local Iowa Workforce Development (IWD) office to explain that the claimant was a currently employed, part-time employee and ask how to fill out the protest. The IWD representative assured her that she did not need to protest the claim as the claimant would be receiving benefits from his full-time employer. As a result, on January 8, 2018, Vos returned the notice of claim to IWD stating that the employer was not protesting the receipt of benefits.

The first notice the employer had that it was being held liable for the claimant's receipt of benefits following the conversation with the IWD representative was the Statement of Charges dated July 6, 2018 for the first quarter of 2018. The employer filed its appeal of that Statement

of Charges on July 13, 2018. The issues of whether the claimant is partially unemployed and whether the part-time employer should be relieved of charges has not yet been investigated and adjudicated by the Benefits Bureau.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the employer filed a timely appeal to the Statement of Charges.

Iowa Code section 96.6(2) provides, in pertinent part:

Filing – determination – appeal.

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:

Employer contribution and reimbursements.

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 received the notice of claim but received incorrect advice from an IWD representative who stated that it did not need to protest as it would not be charged for the claimant's benefits. The employer filed its appeal of the Statement of Charges within the time period prescribed by the Iowa Employment Security Law. The appeal was filed within thirty days of the first notice it had that its account would be subject to charge for the claimant's benefits. The issues of whether the claimant is partially unemployed and whether his part-time employer should be relieved of charges are remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination.

DECISION:

The July 6, 2018, Statement of Charges for the first quarter of 2018 is affirmed pending the outcome of the remanded issues. The employer has filed a timely appeal from that Statement of Charges.

REMAND:

The issues of whether the claimant is partially unemployed and whether his part-time employer should be relieved of charges are remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination.

Stephanie R. Callahan
Administrative Law Judge

Decision Dated and Mailed

src/scn