

**BEFORE THE
EMPLOYMENT APPEAL BOARD
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321
Website: eab.iowa.gov**

APRIL J BENTLEY

Claimant

: **APPEAL NUMBER:** 24B-UI-10405

: **ALJ HEARING NUMBER:** 23A-UI-10405

:

and

:

**EMPLOYMENT APPEAL BOARD
DECISION**

:

ST ANTHONY REGIONAL HOSPITAL

:

:

Employer

:

SECTION: 10A.601 Employment Appeal Board Review

DECISION

FINDINGS OF FACT:

Claimant filed an original claim for unemployment insurance benefits effective March 19, 2023. Claimant's administrative records establish that a notice of claim was emailed to the employer on March 28, 2023 via the SIDES system. The employer returned a response to IWD on March 28, 2023 stating that the claimant was had clocked out on her last day forty minutes after the start, and had then been no call/no show for six consecutive shifts. The Employer provided the name and contact information for its representative. No fact-finding interview was scheduled or held regarding the claimant's employment with this employer. No ANDS decision has been issued on the Employer's protest to date.

REASONING AND CONCLUSIONS OF LAW:

In cases where an employer fails to protest a claim because it did not receive notice then the Employer may, in appropriate cases, contest benefits by replying to a statement of account charges.

This is not such a case. Here the Employer did timely protest. The Employer also protested its charges through the UI tax system. We have no jurisdiction in tax cases. *C.f. Tristan Construction v. Iowa Workforce*, No. 11-0794 (Iowa App. 2/1/2012) (Petition untimely because tax rehearing request went to EAB which has no authority). We thus make no determination of the tax case except to note that if the outcome of the benefit remand changes the Employer's liability for this particular claim then this may change the moneys due.

This is a case where the Employer timely protested and no one did anything with the protest. The protest needs to be addressed, and for our purposes timeliness of the appeal from statement of charges is moot. Such an appeal *challenging the allowance of benefits to an individual claimant* is only needed, or even relevant, if there is no timely protest. There is a timely protest, and that must be addressed. We therefore remand the matter to Iowa Workforce, Benefits Bureau to address this employers protest made via the SIDES system on January 13, 2023.

Iowa Code section 10A.601(4) (2024) provides:

5. Appeal board review. The appeal board may on its own motion affirm, modify, or set aside any decision of an administrative law judge on the basis of the evidence previously submitted in such case, or direct the taking of additional evidence, or may permit any of the parties to such decision to initiate further appeals before it. The appeal board shall permit such further appeal by any of the parties interested in a decision of an administrative law judge and by the representative whose decision has been overruled or modified by the administrative law judge. The appeal board shall review the case pursuant to rules adopted by the appeal board. The appeal board shall promptly notify the interested parties of its findings and decision.

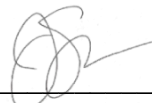
Pursuant to this authority we review this case and determine to remand it for further proceedings consistent with this decision.

We note that the reason for separation was not given in the form itself, but since no call now show was mentioned, and the attachment to the SIDES makes clear the reason and type of separation it is clear that the Employer did protest. In the future the Employer would more consistently get a prompt fact finding if it indicates the type of separation in the indicate place in SIDES response.

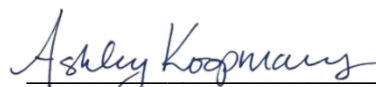
DECISION:

The decision of the administrative law judge dated November 28, 2023 is not addressed by this decision in as much as it addresses tax liability. We do not address the notice of reimbursable benefit charges as it is not under our jurisdiction.

On the issues raised in the Employer's protest filed in response to this Claimant's original claim we remand this matter to Iowa Workforce, Benefits Bureau to address the issues. We note that the Claimant's active claim is currently unlocked. This should not change at this time since we do not, at this time, address the merit of the Employer's argument.



James M. Strohman



Ashley R. Koopmans



Myron R. Linn

RRA/fnv

DATED AND MAILED: JAN 05 2024