

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ASHLEY A YILEK
Claimant

DAVIDSON FAMILY DENTISTRY LLC
Employer

APPEAL 21A-UI-01235-CL-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/15/20
Claimant: Respondent (4)

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 November 9, 2020, for the third quarter of 2020. A hearing was scheduled and held on February 19, 2021, pursuant to due notice. Claimant participated. Employer participated through clinic administrator Diane Davidson.

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: Claimant filed a claim for unemployment insurance benefits with an effective date of March 15, 2020.

On March 17, 2020, Iowa Workforce Development mailed a notice of claim to employer's last address of record. Employer received the notice of claim. Employer misplaced the notice of claim, so it called Iowa Workforce Development for advice on how to respond. Employer was advised to send in a statement of protest. On March 24, 2020, employer faxed a written statement of protest to Iowa Workforce Development. Employer protested on the basis that claimant resigned to take other employment on June 5, 2019. Unbeknownst to employer, Iowa Workforce Development did not receive the fax.

On August 7, 2020, Iowa Workforce Development mailed employer a statement of charges for the second quarter of 2020. Claimant's benefit charges appeared on the statement. Employer did not receive the statement of charges.

On November 9, 2020, Iowa Workforce Development mailed a statement of charges to employer for the third quarter of 2020. It was employer's first notice that it was being charged for claimant's unemployment insurance benefits. Employer filed an appeal on November 11, 2020.

Claimant has requalified for benefits since her separation from this employer.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the employer filed a timely protest.

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.

In this case, employer had prior notice of claim and timely filed a protest with Iowa Workforce Development. Iowa Workforce Development did not receive the protest, and employer filed an appeal immediately upon learning this information. The protest shall be accepted as timely.

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.

DECISION:

The November 9, 2020, Statement of Charges for the third quarter of 2020 is modified in favor of the appellant. The employer has filed a timely protest. The claimant has requalified for benefits since the separation. Benefits are allowed, provided the claimant is otherwise eligible. The account of the employer shall not be charged.



Christine A. Louis
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515)478-3528

March 01, 2021
Decision Dated and Mailed

cal/ol