

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

SUZANNE M LEIRAN
Claimant

APPEAL 19A-UI-06081-DB-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

ALLAMAKEE CO AGRI EXT DIST
Employer

OC: 12/16/18
Claimant: Respondent (1)

Iowa Code § 96.6(2) – Timeliness of Employer Protest
Iowa Code § 96.7(8)B(4) – Application for Redetermination
Iowa Code § 96.7(2)a(6) – Statement of Charges

STATEMENT OF THE CASE:

The employer filed an appeal from the notice of reimbursable benefit charges dated July 15, 2019, which listed reimbursable benefit charge information for the second quarter of 2019. Due notice was issued and a hearing was held on August 19, 2019. Claimant participated personally. Employer participated through witness Julie Christensen. The administrative law judge took official notice of the administrative records including WAGE-A and the Notice of Claim.

ISSUES:

Did the employer file a timely protest to the notice of claim?
Did the employer timely appeal the notice of reimbursable charges?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds:

Claimant filed an initial claim for unemployment insurance benefits with an effective date of December 16, 2018. Iowa Workforce Development (“IWD”) mailed the employer a Notice of Claim on December 18, 2018. The employer received the Notice of Claim in the mail on December 20, 2018. The employer did not return a timely Statement of Protest to Iowa Workforce Development regarding the Notice of Claim. The employer filed an appeal to the reimbursable statement of charges on July 31, 2019. Employer is protesting the claim on the basis that claimant was a seasonal employee.

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.

Another portion of this same Code section dealing with timeliness of an appeal from a representative's decision states that such an appeal must be filed within ten days after notification of that decision was mailed. In addressing an issue of timeliness of an appeal under that portion of this Code section, the Iowa Supreme Court held that this statute prescribing the time for notice of appeal clearly limits the time to do so, and that compliance with the appeal notice provision is mandatory and jurisdictional. *Beardslee v. Iowa Dep't of Job Serv.*, 276 N.W.2d 373 (Iowa 1979). The administrative law judge considers the reasoning and holding of that court in that decision to be controlling on this portion of that same Iowa Code section which deals with a time limit in which to file a protest after notification of the filing of the claim has been mailed.

Iowa Code section 96.7(8)B(4) provides:

8. Financing benefits paid to employees of nonprofit organizations.

b. Reimbursements for benefits paid in lieu of contributions shall be made in accordance with the following:

(4) The amount due specified in a bill from the department is conclusive unless, not later than fifteen days following the date the bill was mailed or otherwise delivered to the last known address of the nonprofit organization, the nonprofit organization files an application for redetermination with the department setting forth the grounds for the application. The department shall promptly review the amount due specified in the bill and shall issue a redetermination. The redetermination is conclusive on the nonprofit organization unless, not later than thirty days after the redetermination was mailed or otherwise delivered to the last known address of the nonprofit organization, the nonprofit organization files an appeal to the district court pursuant to 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.

Iowa Code section 96.7(2)a(6), which applies to contributory employers, provides guidance in the situation here, which deals with a reimbursable employer. It states that an employer who did not receive notice of the claim may appeal to the department for a hearing to determine the eligibility of an individual to receive benefits.

In this case, the employer received the notice of the claim on December 20, 2018 and failed to return a statement of protest to Iowa Workforce Development by the due date listed on the form. As such, the conditions for appealing the statement of charges have not been met because the employer was notified of the notice of claim pursuant to Iowa Code 96.6(2). The notice of reimbursable benefit charges dated July 15, 2019 is affirmed.

DECISION:

The employer failed to file a timely protest. The conditions for appealing the statement of charges have not been met. The July 15, 2019 statement of charges for the second quarter of 2019 is affirmed.

Dawn R. Boucher
Administrative Law Judge

Decision Dated and Mailed

db/rvs