

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

AMBER M PEPLINSKI
Claimant

GEISAMA INC
Employer

APPEAL 19A-UI-01094-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 07/22/18
Claimant: Respondent (4)

Iowa Code § 96.6(2) – Timeliness of Protest
Iowa Code § 96.7(2)a(6) – Appeal from the Quarterly Statement of Charges
Iowa Code Chapter 95 – Requalification

STATEMENT OF THE CASE:

The employer filed an appeal from the Statement of Charges dated February 8, 2019, for the fourth quarter of 2018. Due notice was issued and a hearing was scheduled on February 26, 2019. No hearing was held as there was sufficient evidence in the appeal letter and accompanying documents to resolve the matter without testimony.

ISSUES:

Did the employer file a timely protest of the claim, and if so has the claimant requalified for benefits since the separation?

Did the employer file a timely appeal from a quarterly statement of benefit charges?

FINDINGS OF FACT:

Having reviewed the evidence in the record, the administrative law judge finds: The claimant's notice of claim was mailed to the employer's address of record on July 31, 2018 and received by the employer by August 4, 2018. The employer has submitted fax records that show they successfully submitted a notice of protest to Iowa Workforce Development via the correct fax number on August 4, 2018. The employer filed its protest indicating the claimant voluntarily quit for other employment on June 5, 2017. The agency never issued any decision or set up the matter for a fact-finding interview after the employer filed their notice of protest. The claimant has requalified for benefits since her separation from the employer.

The statement of charges for the fourth quarter of 2018 was mailed to the employer on February 9, 2019. The employer filed their appeal to the statement of charges on February 8, 2019.

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.

The employer has established that they filed a timely notice of protest on August 4, 2018. For some unknown reason, the protest was not acted upon by the agency. As the employer indicated the claimant voluntarily quit for other employment in June of 2017, and the notice of claim came over one year after the claimant had separated from their employment, the employer was justified in considering the agency had resolved the matter in their favor after they filed their notice of protest. The employer's notice of protest shall be accepted as timely.

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.

An employer is only allowed to appeal to the department for a hearing to determine the eligibility of the individual to receive benefits if they were not previously notified pursuant to Iowa Code § 96.6(2) of the notice of claim. In this case, the employer did receive the notice of claim and did file a timely notice of protest. As such, the conditions for appealing the statement of charges under Iowa Code § 96.7(2)a(6) have been met.

The administrative law judge concludes that the employer filed its appeal of the Statement of Charges within the time period prescribed by the Iowa Employment Security Law because it did file a timely appeal to the notice of claim indicating the claimant had filed a claim for benefits. The employer's appeal of that Statement within thirty days is 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 Statement of Charges for the fourth quarter of 2018 is modified in favor of the appellant. The employer has filed a timely appeal from that statement of charges, as they had filed a timely notice of 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. The employer shall be given a credit on their next quarterly statement of charges for any benefits paid to the claimant.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/rvs