

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

HERON ORTIZ MIGUEL
Claimant

GRADE 1 LLC
Employer

APPEAL 18A-UI-07391-CL-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 12/03/17
Claimant: Respondent (4)

Iowa Code § 96.6(2) – Timeliness of Protest
Iowa Code § 96.7(2)a(6) – Appeal from the Statement of Charges
Iowa Code Chapter 96 – Requalification

STATEMENT OF THE CASE:

The employer filed an appeal from the Statement of Charges for the second quarter of 2018 that was mailed on July 6, 2018. The parties were properly notified about the hearing. A telephone hearing was held on August 3, 2018. Claimant participated personally and through interpreter 11645 with CTS Language Link. Employer participated through manager Bruce Ihle. Official notice was taken of the administrative record.

ISSUES:

Did the employer file a timely protest?
Is the employer's appeal of the Statement of Charges timely?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The notice of claim was mailed to the employer's address of record on December 11, 2017. The employer did not receive that notice. A Statement of Charges for the fourth quarter of 2017 was mailed to employer on February 9, 2018. Employer did not receive the Statement of Charges. The first notice of the claimant's claim for benefits was the receipt of the Statement of Charges mailed July 6, 2018, for the second quarter of 2018. The employer filed its appeal of that Statement of Charges on July 11, 2018. The claimant has requalified for benefits since the separation from the employer.

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.

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.

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 not receive the notice of claim and previous statement of charges indicating the claimant had filed a claim for benefits. The employer's appeal of the July 6, 2018, 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 July 6, 2018, Statement of Charges for the second quarter of 2018 is modified in favor of the appellant. The employer has filed a timely appeal from that Statement of Charges, as the Notice of Claim and previous Statement of Charges were not received. 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.

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Decision Dated and Mailed

cal/scn