

**IN THE IOWA ADMINISTRATIVE HEARINGS DIVISION
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ALEJANDRO V WICKERSHAM
Claimant

MBRICO LLC
Employer

APPEAL 25A-UI-01700-CS-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 02/18/24
Claimant: Respondent (1R)**

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:

On February 26, 2025, Mbrico LLC (employer) filed an appeal from the statement of charges dated February 7, 2025, reference 06, for the fourth quarter of 2024. A hearing was held on March 24, 2025, pursuant to due notice. Alejandro V. Wickersham (claimant) participated. The employer participated through Owner, Mark McManus. The Department's Exhibits D1 through D3 were admitted into the record.

ISSUES:

- I. Was the employer's protest timely?
- II. 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: The claimant separated from employment on March 8, 2023. The claimant went to work for Per Mar. The claimant filed a claim for benefits effective February 18, 2024. The notice of claim was sent through the SIDES system on March 13, 2024. (Exhibit D-1). The notice was sent to the employer's accountant, however, the accountant did not notify the employer. The employer did not give the accountant permission to receive their unemployment claims. The employer has since changed the employer's information in SIDES so the appropriate people receive the notice of claims.

Iowa Workforce Development sent the employer's accountant a questionnaire to complete. (Exhibit D-3). The employer completed the questions and returned them to Iowa Workforce Development. (Exhibit D-3). The first notice the claimant was receiving benefits was the receipt of the statement of charges mailed February 7, 2024 for the fourth quarter of 2024. (Exhibit D-2). The employer filed its appeal of that statement of charges on February 26, 2025. (Exhibit D-3)

The issue of whether the claimant's separation qualifies him for benefits has not yet been investigated or adjudicated by the Benefits Bureau.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the employer did file a timely appeal to the statement of charges.

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 issuance of the notice of the filing of the claim to protest payment of benefits to the claimant.

Iowa Code section 96.7(2)a(6) provides:

Employer contribution and reimbursements.

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 Admin. Code r. 871-26.3 provides:

(1) An unemployment benefits contested case must be filed by a party within ten calendar days of mailing the initial determination of benefits as determined by the postmark or date stamp to the party's last-known address. The appeal must be in writing and delivered by mail, facsimile, email, online, or in person to the department of inspections, appeals, and licensing's unemployment insurance appeals bureau at UIAB Administrative Hearings Division, 502 East 9th Street, Des Moines, Iowa 50319. An online appeal is filed by completing and submitting an online appeal form available on the workforce development website.

(2) The appeal should state the following:

- a. The name, address and social security number of the claimant;
- b. A reference to the decision from which the appeal is taken; and
- c. The grounds upon which the appeal is based.

(3) Notwithstanding the provisions of subrule 26.3(1), a contributory employer, which has not previously received a notice of the filing of a valid claim for benefits, may appeal an individual's eligibility to receive benefits within 30 calendar days from the mailing date of the quarterly statement of benefit charges.

(4) Also notwithstanding the provisions of subrule 26.3(1), a reimbursable employer, which has not previously received a notice of the filing of a valid claim for benefits, may appeal an individual's eligibility to receive benefits within 15 calendar days from the mailing date of the quarterly billing of benefit charges.

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 indicating the claimant had filed a claim for benefits. The employer's appeal of that statement within thirty days is timely.

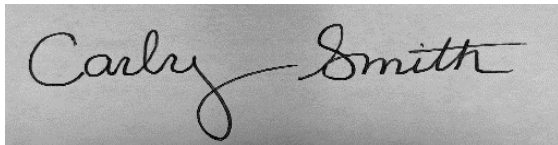
The issue of whether the claimant's separation qualifies him for benefits is remanded to the Benefits Bureau for a fact-finding interview and unemployment insurance decision.

DECISION:

The February 7, 2025, reference 06, statement of charges for the fourth quarter of 2024 is affirmed, pending the outcome of the remanded issue. The employer has filed a timely appeal from that statement of charges, as the notice of claim was not received.

REMAND:

The issue of whether the claimant's separation qualifies him for benefits is remanded to the Benefits Bureau for a fact-finding interview and unemployment insurance decision.

A handwritten signature in black ink that reads "Carly Smith". The signature is written in a cursive, flowing style. The "C" is large and loops around the "arly". The "Smith" is written in a more standard cursive. The signature is on a light-colored, slightly textured background.

Carly Smith
Administrative Law Judge

March 25, 2025
Decision Dated and Mailed

cs/scn

APPEAL RIGHTS. If you disagree with the decision, you or any interested party may:

1. Appeal to the Employment Appeal Board within fifteen (15) days of the date under the judge's signature by submitting a written appeal via mail, fax, or online to:

**Employment Appeal Board
6200 Park Ave Suite 100
Des Moines, Iowa 50321
Fax: (515)281-7191
Online: eab.iowa.gov**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

AN APPEAL TO THE BOARD SHALL STATE CLEARLY:

- 1) The name, address, and social security number of the claimant.
- 2) A reference to the decision from which the appeal is taken.
- 3) That an appeal from such decision is being made and such appeal is signed.
- 4) The grounds upon which such appeal is based.

An Employment Appeal Board decision is final agency action. If a party disagrees with the Employment Appeal Board decision, they may then file a petition for judicial review in district court.

2. If no one files an appeal of the judge's decision with the Employment Appeal Board within fifteen (15) days, the decision becomes final agency action, and you have the option to file a petition for judicial review in District Court within thirty (30) days after the decision becomes final. Additional information on how to file a petition can be found at Iowa Code §17A.19, which is online at <https://www.legis.iowa.gov/docs/code/17A.19.pdf> or by contacting the District Court Clerk of Court <https://www.iowacourts.gov/iowa-courts/court-directory/>.

Note to Parties: YOU MAY REPRESENT yourself in the appeal or obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds.

Note to Claimant: It is important that you file your weekly claim as directed, while this appeal is pending, to protect your continuing right to benefits.

SERVICE INFORMATION:

A true and correct copy of this decision was mailed to each of the parties listed.

DERECHOS DE APELACIÓN. Si no está de acuerdo con la decisión, usted o cualquier parte interesada puede:

1. Apelar a la Junta de Apelaciones de Empleo dentro de los quince (15) días de la fecha bajo la firma del juez presentando una apelación por escrito por correo, fax o en línea a:

**Employment Appeal Board
6200 Park Ave Suite 100
Des Moines, Iowa 50321
Fax: (515)281-7191
En línea: eab.iowa.gov**

El período de apelación se extenderá hasta el siguiente día hábil si el último día para apelar cae en fin de semana o día feriado legal.

UNA APELACIÓN A LA JUNTA DEBE ESTABLECER CLARAMENTE:

- 1) El nombre, dirección y número de seguro social del reclamante.
- 2) Una referencia a la decisión de la que se toma la apelación.
- 3) Que se interponga recurso de apelación contra tal decisión y se firme dicho recurso.
- 4) Los fundamentos en que se funda dicho recurso.

Una decisión de la Junta de Apelaciones de Empleo es una acción final de la agencia. Si una de las partes no está de acuerdo con la decisión de la Junta de Apelación de Empleo, puede presentar una petición de revisión judicial en el tribunal de distrito.

2. Si nadie presenta una apelación de la decisión del juez ante la Junta de Apelaciones Laborales dentro de los quince (15) días, la decisión se convierte en acción final de la agencia y usted tiene la opción de presentar una petición de revisión judicial en el Tribunal de Distrito dentro de los treinta (30) días después de que la decisión adquiriera firmeza. Puede encontrar información adicional sobre cómo presentar una petición en el Código de Iowa §17A.19, que se encuentra en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf> o comunicándose con el Tribunal de Distrito Secretario del tribunal <https://www.iowacourts.gov/iowa-courts/court-directory/>.

Nota para las partes: USTED PUEDE REPRESENTARSE en la apelación u obtener un abogado u otra parte interesada para que lo haga, siempre que no haya gastos para Workforce Development. Si desea ser representado por un abogado, puede obtener los servicios de un abogado privado o uno cuyos servicios se paguen con fondos públicos.

Nota para el reclamante: es importante que presente su reclamo semanal según las instrucciones, mientras esta apelación está pendiente, para proteger su derecho continuo a los beneficios.

SERVICIO DE INFORMACIÓN:

Se envió por correo una copia fiel y correcta de esta decisión a cada una de las partes enumeradas.