

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

MACAYLA E BURKHALTER
Claimant

APPEAL 24A-UI-04769-DZ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

TEMP ASSOCIATES-IOWA INC
Employer

**OC: 08/27/23
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:

Temp Associates-Iowa Inc, the employer/appellant,¹ appealed the Iowa Workforce Development (IWD) May 9, 2024 Statement of Charges for the First Quarter of 2024 that listed charges of \$1,630.00 to the employer's account for UI benefits IWD paid to Ms. Burkhalter. On May 20, 2024, the Iowa Department of Inspections, Appeals, and Licensing (DIAL), UI Appeals Bureau mailed a notice of hearing to the employer and Ms. Burkhalter for a telephone hearing scheduled for June 4, 2024.

The administrative law judge held a telephone hearing on June 4, 2024. The employer participated in the hearing through Jennifer Fett, branch manager. Ms. Burkhalter did not participate in the hearing. The administrative law judge admitted Department's Exhibit 1, and Employer's Exhibits 1-3 as evidence.

The administrative law judge concludes the employer protested Ms. Burkhalter's UI claim on time and appealed the Statement of Charges on time.

ISSUE:

Did the employer protest Ms. Burkhalter's UI claim on time?
Did the employer appeal from the Statement of Charges on time?

FINDINGS OF FACT:

Having reviewed the evidence in the record, the undersigned finds: Ms. Burkhalter applied for UI benefits effective August 27, 2023. IWD sent the employer a Notice of Ms. Burkhalter's UI claim via mail on August 29, 2023. The Notice contains a warning that the employer's protest response is due ten days from the initial Notice date and gave a due date of Friday, September 8, 2023.

¹ Appellant is the person or employer who filed the appeal.

The employer received the Notice. Ms. Fett completed the Notice, signed it, and dated it August 31, 2024. Ms. Fett emailed the Notice to IWD the same day.

On September 6, 2023, IWD mailed the employer a reference 01 UI decision. In this decision, IWD found Ms. Burkhalter eligible for UI benefits as of August 27, 2023. The appeal deadline in this decision was Saturday, September 16, 2023. If the appeal deadline falls on a Saturday, Sunday, or legal holiday, the appeal period is extended to the next working day. So, the appeal deadline was extended to Monday, September 18, 2023.

The employer received this decision in the mail. The employer did not appeal because the employer had laid off Ms. Burkhalter September 1-7.

On October 23, 2023, Ms. Burkhalter's employment ended with the employer when she obtained new employment. The employer did not notify IWD of the ending of Ms. Burkhalter's employment.

On May 9, 2024, IWD mailed the employer the Statement of Charges for the First Quarter of 2024. The appeal deadline for the Statement is Saturday, June 8, 2024. If the appeal deadline falls on a Saturday, Sunday, or legal holiday, the appeal period is extended to the next working day. So, the appeal deadline is extended to Monday, June 10, 2024. The employer appealed the Statement online on May 16, 2024.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes: The employer protested Ms. Burkhalter's UI claim on time and appealed the Statement of Charges on time.

Iowa Code section 96.6(2) provides, in relevant 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:

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) 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 Admin. Code r. 871-26.4 provides, in relevant part:

2. An appeal from an initial decision concerning the allowance or denial of benefits shall be filed, by mail, facsimile, or e-mail, online, or in person, not later than ten calendar days, as determined by the postmark or the date stamp after the decision was mailed to the party at its last-known address and shall state the following:

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

3. Notwithstanding the provisions of subrule 26.4(2), 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 days from the mailing date of the quarterly statement of benefit charges.

4. Also notwithstanding the provisions of subrule 26.4(2), 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 days of the mailing date of the quarterly billing of benefit charges.

Iowa Code section 96.7(2)a(6) provides that an employer who did not receive a Notice of Claim may appeal so IWD can determine the claimant's eligibility to receive UI benefits. But if the employer received Notice of the Claim and did not protest the claim, the employer cannot appeal the claimant's eligibility to receive UI benefits based on the employer receiving the Statement of Charges.

In this case, the employer protested the Notice of Claim for Ms. Burkhalter's UI claim on August 31, 2024, which was before the September 8 deadline. The employer protested Ms. Burkhalter's UI claim on time. The employer appealed the Statement of Charges for the First Quarter of 2024 on May 16, which is before the June 10 deadline. The employer appealed the Statement on time.

The issues of Ms. Burkhalter's eligibility for UI benefits based on how her job ended with this employer or any current employer, and/or whether this employer's account should be charged should be remanded (sent back) to the IWD Benefits Bureau for investigation and any necessary action.

DECISION:

The May 9, 2024 Statement of Charges for the First Quarter of 2024 is AFFIRMED, PENDING REMAND. The employer protested the Notice of Claim for Ms. Burkhalter's UI claim on time, and the employer appealed the Statement of Charges on time.

REMAND:

The issues of Ms. Burkhalter's eligibility for UI benefits based on how her job ended with this employer or any current employer, and/or whether this employer's account should be charged is REMANDED (sent back) to the IWD Benefits Bureau for investigation and/or any necessary action.



Daniel Zeno
Administrative Law Judge

June 5, 2024
Decision Dated and Mailed

DZ/jkb

APPEAL RIGHTS. If you disagree with this 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:

**Iowa Employment Appeal Board
6200 Park Avenue 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:

**Iowa Employment Appeal Board
6200 Park Avenue 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 adquiera 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.