

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

TAMI J KEIPER
Claimant

APPEAL 19A-UI-09617-CL-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

PANTHER SHOES LLC
Employer

**OC: 07/14/19
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 November 28, 2019, the employer filed an appeal from the Statement of Charges dated November 8, 2019, for the third quarter of 2019. The Statement of Charges included charges for claimant's unemployment insurance benefits. The parties were properly notified about the hearing. A telephone hearing was held on January 3, 2020. Claimant participated. Employer participated through president Michael Bowman. Official notice was taken of the administrative record.

ISSUES:

Is the employer's protest timely?
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: Employer purchased a business from William W. Warren, Inc. (367425) on July 18, 2019. Claimant filed a claim for unemployment insurance benefits effective July 14, 2019. A notice of claim was mailed to William W. Warren, Inc. on July 19, 2019. William W. Warren, Inc. did not pass on the notice of claim to employer or inform employer of the notice of claim. William W. Warren, Inc. did not protest the claim.

On September 17, 2019, Iowa Workforce Development Unemployment Insurance Tax Bureau issued a decision finding employer acquired the business of William W. Warren, Inc. effective July 18, 2019, and transferring all past experience to employer's account. Employer has not appealed that decision.

The first notice employer had of claimant's claim for unemployment insurance benefits was the receipt of the Statement of Charges mailed November 8, 2019, for the third quarter of 2019. It included charges for claimant's benefits. Employer filed an appeal on November 28, 2019.

Claimant was separated from employment on July 17, 2019, because of the change in ownership. Employer acknowledges it did not offer claimant employment after purchasing the business.

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.

While William W. Warren, Inc. may have received notice of the claim, it would not have been until after July 18, 2019, when it no longer owned the business. Iowa Workforce Development has determined employer is liable for any debt incurred by William W. Warren, Inc. prior to July 18, 2019, but not afterward. Employer is only liable for its own debt going forward, and it was not notified of this claim until it received the November 8, 2019, Statement of Charges.

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

The issue of whether claimant's separation from employment disqualifies her from receiving unemployment insurance benefits is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination.

DECISION:

The November 8, 2019, Statement of Charges for the third quarter of 2019 is affirmed pending a determination by the Benefits Bureau of Iowa Workforce Development on whether claimant's separation from work disqualifies her from receiving unemployment insurance benefits. 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 claimant's separation disqualifies her from receiving unemployment insurance benefits is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination.



Christine A. Louis
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515)478-3528

January 6, 2020
Decision Dated and Mailed

cal/scn