

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**RAYMOND L SMITH**  
Claimant

**APPEAL 18A-UI-09641-CL-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CEI EQUIPMENT COMPANY INC**  
Employer

**OC: 02/04/18  
Claimant: Respondent (4)**

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Iowa Code Chapter 96 – Requalification  
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:**

The employer filed an appeal from the August 9, 2018, Statement of Charges for the second quarter of 2018 which included charges for claimant's unemployment insurance benefits. The parties were properly notified about the hearing. A telephone hearing was held on October 4, 2018. Claimant participated. Employer participated through manager of accounting and human resources Kim Hurlbert. Employer's Exhibit 1 was received.

**ISSUES:**

Is the employer's appeal from the Statement of Charges timely?  
Is the employer's protest timely?  
Has the claimant requalified for benefits since separating from this employer?

**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 February 9, 2018. The employer received the notice on February 12, 2018, and faxed a response to Iowa Workforce Development on February 13, 2018. The fax was not received, but employer did not receive a notice of a failed transmission. The first notice that the fax failed was the receipt of the Statement of Charges mailed August 9, 2018 for the second quarter of 2018. The employer filed its appeal of that Statement of Charges on August 16, 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 employer's appeal of the Statement of Charges within thirty days is timely. Employer timely responded to the notice of claim, but the fax was not received by Iowa Workforce Development. Immediately upon receipt of that information, employer filed an appeal. Therefore, the protest shall be accepted as 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 August 9, 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, and its protest of the notice of claim was timely. 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

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