

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

XIUJUAN CHEN
Claimant

PANDA EXPRESS INC
Employer

APPEAL 18A-UI-09397-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 11/19/17
Claimant: Respondent (4)**

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

STATEMENT OF THE CASE:

The employer filed an appeal from the second quarter 2018, statement of charges that notified them that their account was being charged for benefits paid to Ethan M. Pals. The parties were properly notified about the hearing. A telephone hearing was scheduled to be held on September 27, 2018. A review of agency records including a prior administrative law judge's decision on the employer's first quarter 2018 statement of charges makes clear that no hearing was necessary as the issue has been resolved.

ISSUES:

Did the employer file a timely protest to the notice of claim?
Did the employer file a timely appeal to the statement of charges?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The second quarter statement of charges was mailed to the employer on August 9, 2018, prior to the hearing being held on the first quarter statement of charges on August 22, 2018. The employer filed their appeal to the second quarter 2018 statement of charges on September 7, 2018. The hearing held in 18A-UI-08152-SCT resolved the issues as to whether the employer filed a timely protest and whether the employer filed a timely appeal to the first quarter 2018 statement of charges. On September 10, 2018 the agency issued a new decision finding that the claimant had requalified for benefits since her separation from this employer and the employer's account was not subject to charges. That decision has not been appealed and has become final. The findings of fact in 18A-UI-08152-SCT are adopted and incorporated herein.

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 reasoning and conclusions of law in 18A-UI-8152-SCT are adopted and incorporated herein. The administrative law judge concludes that the employer did file its appeal of the first quarter 2018 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 the second quarter 2018 statement of charges was within 30 days and is timely. The agency has not determined that the claimant has requalified for benefits since the separation from this employer in a decision issued on September 10, 2018 (reference 03). Accordingly, benefits are allowed, provided the claimant is otherwise eligible, 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 employer/appellant. The employer's next statement of charges will be credited for benefits paid to the claimant.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/rvs