

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

MICHAEL W PAXTON
Claimant

QUAD CORPORATION INC
Employer

APPEAL 17A-UI-12341-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 07/16/17
Claimant: RESPONDENT (4R)

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 November 9, 2017, third quarter statement of charges. The parties were properly notified about the hearing. A telephone hearing was held on December 20, 2017. Claimant did not participate. Employer participated through Melissa DeClerk, Partner, and Jesse Noriega, Collection Manager.

ISSUE:

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 notice of claim was mailed to the incorrect employer's address of record on July 21, 2017. The address did not include the correct suite number for the employer's place of business. The employer did not receive that notice. The first notice of the claimant's claim for benefits was the receipt of the Statement of Charges mailed November 9, 2017 for the third quarter of 2017. The employer filed its appeal of that Statement of Charges on November 29, 2017. There are issues as to whether the claimant was an employee of the employer and whether he had a qualifying separation from employment that have not yet been investigated or adjudicated at the claims level.

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 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 employer's appeal of that Statement within thirty days is timely. The issues as to whether the claimant was an employee of this employer and whether he had a qualifying separation from employment are remanded to the claims section of Iowa Workforce Development for an initial investigation and determination.

DECISION:

The November 9, 2017, Statement of Charges for the third quarter of 2017 is moot until the issue of claimant's employment status and separation are investigated and determined by the claims section of Iowa Workforce Development. The employer has filed a timely appeal from that Statement of Charges, as the Notice of Claim was not received.

REMAND:

The issues as to whether the claimant was an employee and whether his separation was disqualifying are remanded to the claims section of Iowa Workforce Development for an initial investigation and determination.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/rvs