

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

**DENISE A LENZ**  
Claimant

**APPEAL NO: 20A-UI-00863-JE-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**COLLEGE COMMUNITY SCHOOL DISTRICT**  
Employer

**OC: 12/01/19**  
**Claimant: Respondent (2R)**

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

**STATEMENT OF THE CASE:**

The employer filed an appeal from the statement of charges for the fourth quarter of 2019, on January 30, 2020. After due notice was issued, a hearing was held on February 13, 2020, before Administrative Law Judge Julie Elder. The claimant provided a phone number prior to the hearing but was not available at that number at the time of the hearing and did not participate in the hearing. Jeri Moritz, Executive Director of Human Resources, participated in the hearing on behalf of the employer.

**ISSUE:**

The issues are whether the employer's protest is timely and whether its protest of the statement of charges is timely.

**FINDINGS OF FACT:**

Having reviewed the evidence in the record, the administrative law judge finds: The claimant's notice of claim was mailed to the employer's address of record but the employer never received it. The first notice the employer received that the claimant made a claim for benefits was the receipt of the statement of charges mailed December 31, 2019, for the fourth quarter of 2019. The employer emailed its appeal of the notice of claim and statement of charges January 13, 2020, which was within thirty days. There are issues regarding the reason for the claimant's separation from employment that have not yet been investigated or adjudicated at the Benefits Bureau 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.

Another portion of this same Code section dealing with timeliness of an appeal from a representative's decision states that such an appeal must be filed within ten days after notification of that decision was mailed. In addressing an issue of timeliness of an appeal under that portion of this Code section, the Iowa Supreme Court held that this statute prescribing the time for notice of appeal clearly limits the time to do so, and that compliance with the appeal notice provision is mandatory and jurisdictional. *Beardslee v. IDJS*, 276 N.W.2d 373 (Iowa 1979).

The administrative law judge considers the reasoning and holding of that court in that decision to be controlling on this portion of that same Iowa Code section which deals with a time limit in which to file a protest after notification of the filing of the claim has been mailed. The employer has shown good cause for not complying with the jurisdictional time limit.

The administrative law judge concludes that the employer never received the notice of claim and the first time it was aware the claimant filed a claim occurred when it received the statement of charges. Consequently, its appeal of the statement of charges is considered timely. The issue of the reason for the separation is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and adjudication.

With regard to the timeliness of the employer's appeal of the statement of charges within the 30 day time period prescribed by the Iowa Employment Security Law, the employer received the statement of charges, which was mailed January 15, 2020, and filed its appeal January 30, 2020, within the 30 day time frame. Consequently, its appeal of the statement of charges is considered timely. The issue of the reason for the separation is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and adjudication.

**DECISION:**

The reference 03, decision is reversed. The employer did not receive the claimant's notice of claim and its appeal of the statement of charges is timely. The issue of the reason for the claimant's separation is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and adjudication.

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Julie Elder  
Administrative Law Judge

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Decision Dated and Mailed

je/scn