

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

RANDY A PETERS
Claimant

**ACCEPTED RITE OF FREE MASONRY
SIOUX CITY LODGE OF PERFECTION**
Employer

APPEAL 18A-UI-08052-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 08/20/17
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 Statement of Charges dated July 16, 2018 for the first quarter of 2018. A hearing was scheduled to be held on August 16, 2018. The employer did register to participate in the hearing. A review of the employer's appeal as well as agency documents and records made it clear no additional testimony was necessary and no hearing was held. .

ISSUE:

The issue is whether the protest or the appeal from the statement of charges is timely.

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 August 23, 2018. The employer did not receive that notice. A scanned copy of the notice of claim was found in the agency's Alfresco data base that indicated the notice of claim had been returned by the post office as undeliverable. The first notice of the claimant's claim for benefits was the receipt of the Statement of Charges mailed July 16, 2018 for the first quarter of 2018. The employer filed its appeal of that Statement of Charges on July 25, 2018. There are issues of the reason for the separation, lack of separation and possible requalification by the claimant 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 of the reason for the separation, lack of separation and possible requalification are remanded to the claims section of Iowa Workforce Development for an initial investigation and determination.

DECISION:

The July 16, 2018, Statement of Charges for the first quarter of 2018 will remain in place until the agency takes further action consistent with the remand section of this decision. The employer's account will be credited on a future statement of charges, if appropriate. The employer has filed a timely appeal from that Statement of Charges, as the Notice of Claim was not received.

REMAND:

The issues of the reason for the separation, if one has occurred, and whether the claimant has requalified for benefits 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