

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

PENNIE J KRAGEL
Claimant

R L FRIDLEY THEATRES INC
Employer

APPEAL 22A-UI-09892-JC-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/29/20
Claimant: Respondent (1R)

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:

On November 15, 2021, the employer filed an appeal from the Statement of Charges dated November 9, 2021, for the third quarter of 2021. A hearing was scheduled and held on May 6, 2022 pursuant to due notice. Claimant participated. Employer participated through Lisa Dotson. Official notice was taken of the administrative record. Department Exhibit 1 was admitted

ISSUES:

Was the employer's protest timely?
Was the employer's appeal from the Statement of Charges timely?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant filed a claim for unemployment insurance benefits with an effective date of March 29, 2020. Employer is a movie theater and was mandated to close by Governor Reynolds' March 17, 2020 emergency proclamation.

On April 1, 2020, Iowa Workforce Development (IWD) mailed a notice of claim to employer's last address of record. Employer received the notice of claim. The notice of claim contained a warning that any protest must be postmarked, faxed or returned not later than ten days from the initial mailing date. Based on information provided by IWD and press, the employer believed it was not chargeable for benefits at that time. It did not protest benefits.

Employer states it does not protest the receipt of benefits, but does not believe it should be charged. Employer stated based upon representation from IWD, that it believed its account would not be charged for claims that were due to COVID-19. Employer's testimony is consistent with information for employers on the IWD website, which stated:

ATTENTION EMPLOYERS:

At this time, IWD is not charging employers for claims made by their employees due to COVID-19 related unemployment. Presently, there are also no plans to enact a trigger to begin charging employers in the event that the trust goes below a certain threshold. IWD will notify employers of any changes to this decision should the need arise.

See: <https://www.iowaworkforcedevelopment.gov/COVID-19#ife>

Claimant is listed as Group Code 8, which indicated that she was unemployed because of the pandemic. Under this group code, claimant is still attached to the employer but was not able to work due to the pandemic, and the employer is relieved of any charges.

On May 11, 2021, Governor Reynolds announced that effective June 13, 2021, Iowa will no longer waive employer charges for COVID-related unemployment insurance claims.ⁱ

Claimant continued to make weekly continued claims after June 13, 2021 due to a reduction in hours. Employer was not provided an opportunity to protest the claim after June 13, 2021, as its next notice from IWD involving the claimant was the statement of charges dated November 9, 2021. Employer filed its appeal on November 15, 2021 (Department Exhibit 1).

The issues of claimant's eligibility and whether she was partially unemployed from this employer has not been adjudicated by the Benefits Bureau of the Iowa Workforce Development.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the employer filed a timely appeal from the Statement of Charges.

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 after being previously informed employer was not charged for benefits. The employer's appeal of that statement within thirty days is timely. The issues of claimant's eligibility and whether she was partially unemployed from this employer are remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation.

DECISION:

The November 9, 2021 statement of charges for the third quarter of 2021 is affirmed pending a determination on whether claimant is qualified to receive benefits or has requalified for benefits. The employer has filed a timely appeal from that Statement of Charges, as the notice of claim was not received.

REMAND:

The issues of claimant's eligibility and whether she was partially unemployed from this employer are remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation.



Jennifer L. Beckman
Administrative Law Judge
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Iowa Workforce Development
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May 23, 2022
Decision Dated and Mailed

jlb/scn

i i Additional information can be found in the press release at
<https://www.iowaworkforcedevelopment.gov/iowa-end-participation-federal-unemployment-benefit-programs-citing-strong-labor-market-and>