

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ROBERT J WOLF
Claimant

ACTIVE THERMAL CONCEPTS INC
Employer

APPEAL 19A-UI-02114-CL-T
ADMINISTRATIVE LAW JUDGE
DECISION

OC: 11/25/18
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:

The employer filed an appeal from the Statement of Charges dated February 8, 2019, for the fourth quarter of 2018. A hearing was scheduled and held on March 27, 2019, pursuant to due notice. Claimant participated. Employer participated through operations director Matt Yamilkoski. Department's Exhibit D-1 was received.

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: The Notice of Claim was mailed to the employer's address of record on November 29, 2018. 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 February 8, 2019, for the fourth quarter of 2018. The employer filed its appeal of that Statement of Charges on March 11, 2019. Employer is protesting the claim on the basis that claimant was discharged on February 8, 2018. The issues of the reason for the separation and requalification have 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. The deadline to appeal the Statement of Charges was March 10, 2019—30 days after the date it was mailed. Since March 10, 2019, is a Sunday, employer's appeal from the Statement of Charges on Monday, March 11, 2019, is timely. Iowa Code § 4.1(34).

The issues of the reason for the separation and requalification are remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination.

DECISION:

The February 8, 2019, Statement of Charges for the fourth quarter of 2018 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 the reason for the separation and whether the claimant has requalified for benefits and the employer should be relieved of charges for the benefits are remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination.

Christine A. Louis
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Decision Dated and Mailed

cal/scn