

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JORDON D CLARK
Claimant

CITY OF GRINNELL
Employer

APPEAL 17A-UI-07517-SC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 04/02/17
Claimant: Respondent (2R)**

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:

City of Grinnell (employer) filed an appeal from the Statement of Charges dated July 15, 2017, for the second quarter of 2017. A hearing was scheduled and held on August 10, 2017, pursuant to due notice. Jordon D. Clark (claimant) did not respond to the hearing notice and did not participate. The employer participated through Chief of Police, Dennis Reilly and Deputy City Clerk, Ann Wingerter. Employer's Exhibit 1 was received.

ISSUE:

Was the employer's protest timely?
Was the employer's appeal to the statement of charges timely?
Is the employer's statement of charges correct?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The notice of claim was emailed to the employer on or about April 17, 2017 and was due by April 24, 2017. On April 24, 2017, Deputy City Clerk, Ann Wingerter filed the employer's protest using the E-SIDES system stating the claimant was still employed as a reservist with the police force working on an as needed basis. Iowa Workforce Development (IWD) did not receive the employer's response. The employer heard nothing further from IWD and believed the issue had been resolved.

The first notice the employer received that it was being held liable for the claimant's benefits was the receipt of the Statement of Charges mailed July 15, 2017 for the second quarter of 2017. The employer filed its appeal of that Statement of Charges on July 25, 2017. There are issues of whether the claimant was partially unemployed due to a separation from his full-time regular employer, if he is still employed with this employer at the same hours and wages, and if this employer's account should be charged which have not yet been investigated or adjudicated at the claim level.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the employer filed a timely protest to the claimant's claim for benefits and filed a timely appeal to 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 employer filed a protest in a timely manner on April 24, 2017, but IWD apparently did not receive the employer's protest. There is no information to indicate that the employer was at fault for the failure of the information to transmit to IWD. The employer filed its appeal of the Statement of Charges, the first time the employer learned its protest was not received, within the time period prescribed by the Iowa Employment Security Law. The employer's appeal of that Statement within thirty days is timely. The issues of whether the claimant was partially unemployed due to a separation from his full-time regular employer, if he is still employed with this employer at the same hours and wages, and if this employer's account should be charged are remanded to the Benefits Bureau for an initial investigation and determination.

DECISION:

The July 15, 2017, Statement of Charges for the second quarter of 2017 is reversed. The employer has filed a timely appeal from that Statement of Charges, as the Notice of Claim was responded to in a timely fashion but not received by IWD.

REMAND:

The issues of whether the claimant was partially unemployed due to a separation from his full-time regular employer, if he is still employed with this employer at the same hours and wages, and if this employer's account should be charged are remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination.

Stephanie R. Callahan
Administrative Law Judge

Decision Dated and Mailed

src/scn