

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

SARAH L GANNON
Claimant

BOSS LADY INC
Employer

APPEAL 17A-UI-09768-CL-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 10/23/16
Claimant: Respondent (1)**

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

STATEMENT OF THE CASE:

The employer filed an appeal from the Statement of Charges dated August 9, 2017. A hearing was scheduled and held on October 10, 2017, pursuant to due notice. The claimant did not participate. The employer participated through Steve Roling with Roling Tax and Lisa Reyna with Roling Tax. Employer's Exhibits 1 and 2 were received.

ISSUES:

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

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The Statement of Charges for the second quarter of 2017 was mailed to employer's address of record on August 9, 2017. There is no reason to believe the Statement of Charges did not arrive to employer's address of record within a few days of being mailed. The employer postmarked its appeal of that Statement of Charges on September 21, 2017, which is beyond the thirty-day appeal deadline.

REASONING AND CONCLUSIONS OF LAW:

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.

Pursuant to rules Iowa Admin. Code r. 871- 26.2(96)(1) and 871 IAC 24.35(96)(1), appeals are considered filed when postmarked, if mailed. *Messina v. Iowa Dep't of Job Serv.*, 341 N.W.2d 52 (Iowa 1983).

The administrative law judge concludes that the employer did not file its appeal of the Statement of Charges within the time period prescribed by the Iowa Employment Security Law because it did not file an appeal of that Statement within thirty days of the mailing date. Because the appeal from the Statement of Charges is not timely, the administrative law judge lacks jurisdiction to determine the issue of whether employer filed a timely protest and should be liable for charges to its account.

DECISION:

The August 9, 2017, Statement of Charges is affirmed. The employer did not file a timely appeal from the second quarter 2017 Statement of Charges. The charges shall remain in full force and effect.

Christine A. Louis
Administrative Law Judge
Unemployment Insurance Appeals Bureau
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Decision Dated and Mailed

cal/scn