

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

SCOTT D COTTRELL
Claimant

JANCO INDUSTRIES INC
Employer

APPEAL 18R-UI-07891-SC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 11/19/17
Claimant: Respondent (1)**

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:

Janco Industries, Inc. (employer) filed an appeal from the Statement of Charges dated July 16, 2018, for the first quarter of 2018. A hearing was held on September 26, 2018, pursuant to due notice. Scott D. Cottrell (claimant) participated personally. The employer participated through HR Coordinator Melanie Van Maanmen. The Department's Exhibits D1 through D3 were admitted into the record. The employer offered documents for the hearing that were mailed to Iowa Workforce Development (IWD) on September 11, 2018; however, it did not read and follow the instructions on the hearing notice to mail the documents to the opposing party, as required by Iowa Admin. Code r. 871-26.15 and the documents were not admitted into the record.

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 claimant separated from employment on September 30, 2016. He filed a claim for benefits effective November 19, 2017. The notice of claim was mailed to the employer's address of record on November 21, 2017.

The employer received the notice of claim on or about November 27, 2017. It was completed by HR Coordinator Melanie Van Maanmen and returned the same day. She did not provide or select a reason to protest the claimant's claim but did provide payment information for his last week of employment. The agency accepted the response as a non-protest due to the lack of information as to why the employer should not be charged. Van Maanmen did not have an explanation as to why she did not provide a protest reason.

The employer received the Statement of Charges mailed July 16, 2018 for the first quarter of 2018 showing it was being charged for the claimant's benefits. On July 23, 2018, the employer appealed the Statement of Charges.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the employer did not timely protest the claimant's receipt of benefits and the Statement of Charges is correct.

Iowa Code section 96.6(2) provides, in pertinent part:

Filing – determination – appeal.

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:

Employer contribution and reimbursements.

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. [Emphasis added.]

The employer received the notice of claim in a timely fashion and returned the document with information about his last week of pay. The employer failed to provide information indicating it was protesting the claimant's receipt of benefits or provide information as to why its account should not be charged for his benefits. The employer has not established a good cause reason for failing to do so. The employer next received the Statement of Charges. While the appeal was filed within 30 days of the mailing, the ability to appeal that document protesting the claimant's receipt of benefits is only applicable when it is the first notice of the claimant's receipt of benefits. The employer's protest is untimely. The Statement of Charges is correct.

DECISION:

The July 16, 2018, Statement of Charges for the first quarter of 2018 is affirmed. The employer did not timely file an appeal from the first notification it had that the claimant may be eligible for unemployment insurance benefits chargeable to its account.

Stephanie R. Callahan
Administrative Law Judge

Decision Dated and Mailed

src/scn