

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JEFFREY S KRIEGER
Claimant

APPEAL 18A-UI-07588-SC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

ABOLT INC
Employer

**OC: 10/29/17
Claimant: Respondent (4)**

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:

Abolt, 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 August 3, 2018, pursuant to due notice. Jeffrey Kreiger (claimant) participated personally. The employer participated through Payroll Clerk Ashley White. The employer submitted a document related to the claimant's separation; however, that document was not mailed to the claimant prior to the hearing and was not relevant to the issues on the hearing notice, so it was not admitted as an exhibit. The administrative law judge took official notice of the administrative 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 the employer on December 1, 2016. He filed his claim for benefits effective October 29, 2017 and his weekly benefit amount is \$428.00. The administrative record shows that after his separation but before filing his claim for unemployment insurance benefits, the claimant earned more than \$4,280.00 in insured wages from a subsequent employer.

The notice of claim was mailed to the employer's address of record on November 1, 2017. 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 July 6, 2018 for the first quarter of 2018. The employer filed its appeal of that Statement of Charges on July 13, 2018.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the employer filed a timely appeal to the Statement of Charges and the claimant has requalified for benefits since his separation.

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.

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 employer's appeal of that Statement within thirty days is timely. The claimant has requalified for benefits since the separation from this employer by earning ten times his weekly benefit amount in insured wages. Accordingly, benefits are allowed and the account of the employer shall not be charged.

DECISION:

The July 16, 2018, Statement of Charges for the first quarter of 2018 is modified in favor of the appellant, which will appear as a credit to the employer's account on the third quarter Statement of Charges. The employer has filed a timely appeal from that Statement of Charges, as the notice of claim was not received. The claimant has requalified for benefits since the separation. Benefits are allowed, provided the claimant is otherwise eligible. The account of the employer shall not be charged and a credit shall be issued on the third quarter Statement of Charges.

Stephanie R. Callahan
Administrative Law Judge

Decision Dated and Mailed

src/scn