

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

**BOBBY E GRANDSTAFF**  
Claimant

**APPEAL NO. 08A-UI-06659-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**LINK ASSOCIATES**  
Employer

**OC: 12/16/07 R: 02  
Claimant: Respondent (4)**

Section 96.5-1-a – Employer Liability  
Section 96.6-2 – Timely Protest

**STATEMENT OF THE CASE:**

Link Associates (employer) appealed a representative's July 18, 2008 decision (reference 01) that concluded Bobby E. Grandstaff (claimant) was qualified to receive benefits, and the employer's account was subject to charge because the employer had not filed a timely protest. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on August 5, 2008. The claimant failed to respond to the hearing notice by contacting the Appeals Section prior to the hearing and providing the phone number at which he could be contacted to participate in the hearing. As a result, no one represented the claimant. Jay Bruns, Jim Wilke and Steve O'Brien appeared on the employer's behalf. Based on the evidence, the arguments of the employer, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUES:**

Did the employer file a timely protest or establish a legal excuse for filing a late appeal?

Is the employer's account subject to charge?

**FINDINGS OF FACT:**

The claimant started working for the employer on May 18, 2001. The claimant worked full time. On June 10, 2007, the claimant informed his supervisor, Wilke, he was quitting effective immediately because he had accepted another job, driving a truck for a Missouri firm.

The claimant established a claim for benefits during the week of December 16, 2007. On January 22, 2008, the Department mailed a notice to the employer indicating the claimant had filed a claim for benefits and that the employer's account could be subject to charge. The notice of claim indicated the employer had until February 1, 2008, to respond to the notice.

The employer received the notice of claim on January 24, 2008. That same day, January 24, Bruns completed the form and faxed the completed form to the Department. The employer's fax machine did not indicate there were any problems successfully transmitting the fax.

When the employer did not receive any decision or a notice to participate in a fact-finding interview, the employer assumed its account would not be charged. Later, the employer received a statement indicating the amount the employer owed for the first quarter of 2008 based on benefits the claimant received. The employer mistakenly paid the amount. When the employer paid the amount due, someone had not followed the employer's procedure to make sure the amount indicated was actually due or was accurate. It was not until the employer received another notice in July about subsequent charges the employer was responsible for paying, that the employer checked into the charges assessed and contacted the Department. The employer then learned the Department had no record of receiving the January 24 protest. The employer then sent another protest on July 16, 2008.

#### **REASONING AND CONCLUSIONS OF LAW:**

The law provides that all interested parties shall be promptly notified about an individual filing a claim. The parties have ten days from the date of mailing the notice of claim to protest payment of benefits to the claimant. Iowa Code § 96.6-2. Another portion of Iowa Code § 96.6-2 dealing with timeliness of an appeal from a representative's decision states an appeal must be filed within ten days after notification of that decision was mailed. In addressing an issue of timeliness of an appeal under that portion of this Code section, the Iowa Supreme Court has held that this statute clearly limits the time to do so, and compliance with the appeal notice provision is mandatory and jurisdictional. Beardslee v. IDJS, 276 N.W.2d 373 (Iowa 1979).

The reasoning and holding of the Beardslee court is considered controlling on the portion of Iowa Code § 96.6-2 which deals with the time limit to file a protest after the notice of claim has been mailed to the employer. The facts indicate the employer received the notice of claim within the ten-day deadline to appeal. The facts further indicate the employer filed a timely protest by faxing it on January 24, 2008. Even though the Department indicated there was no copy of the employer's completed protest, the evidence at the hearing established the employer filed a timely protest on January 24, 2008.

If the employer had followed its procedure after receiving the first statement of charges, this matter could have been resolved earlier. Even though the employer did not protest charges at that time, this does not negate the fact the employer filed a timely protest. The Appeals Section has legal jurisdiction to relieve the employer's account from charge. See Franklin v. IDJS, 277 N.W.2d 877 (Iowa 1979); and Pepsi-Cola Bottling Company v. Employment Appeal Board, 465 N.W.2d 674 (Iowa App. 1990).

The next issue is whether the employer's account is subject to charge. An employer's account is relieved from charge when a claimant voluntarily quits employment without good attributable to the employer or the employer discharges the claimant for reasons amounting to work-connected misconduct. Iowa Code § 96.7-2-a. Also, under Iowa Code § 96.5-1-a an employer's account is relieved from charge when a claimant quits for other employment. This law applies to both contributory and reimbursable employers. Iowa Code § 96.5-1-a also states a claimant is not disqualified from receiving benefits when he quits employment because he has accepted other employment. The facts establish the claimant voluntarily quit his employment to work for another employer. Therefore, the employer's account will not be charged. The claimant is not disqualified from receiving benefits based on the reasons for this employment separation.

**DECISION:**

The representative's July 18, 2008 decision (reference 01) is modified in the employer's favor. The employer filed a timely protest. The employer's account will not be charged because the claimant quit after he accepted other employment. The claimant is not disqualified from receiving benefits based on the reasons for this employment separation.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/css