

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

STEVE L WEGNER
Claimant

EXPRESS LUBE AND TIRE LLC
Employer

APPEAL 18A-UI-11722-CL-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 08/12/18
Claimant: Respondent (4)**

Iowa Code § 96.6(2) – Timeliness of Protest
Iowa Code § 96.7(2)a(6) – Appeal from the Statement of Charges
Iowa Code Chapter 96 – Requalification

STATEMENT OF THE CASE:

The employer filed an appeal from Statement of Charges dated November 9, 2018, for the third quarter of 2018. A hearing was scheduled for December 20, 2018, pursuant to due notice. Claimant participated. Owner Gary Dozler participated on behalf of employer. Official notice was taken of the administrative record.

ISSUES:

Is the employer's protest timely?
Is the employer's appeal from the statement of charges timely?
Has claimant requalified for benefits?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The notice of claim was mailed to the employer's address of record on August 16, 2018. Employer received the notice of claim on approximately August 20, 2018, and returned it to Iowa Workforce Development via fax the same day. Employer did not get a message that the transmission failed. Unfortunately, Iowa Workforce Development did not receive the fax.

The first notice the fax was not received was employer's receipt of the Statement of Charges mailed November 9, 2018, for the third quarter of 2018. The employer filed its appeal of that Statement of Charges on December 3, 2018.

The claimant has requalified for benefits since the separation from the employer.

REASONING AND CONCLUSIONS OF LAW:

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 administrative law judge concludes that the employer timely protested the claim and the employer's appeal of the Statement of Charges within thirty days is timely. The administrative law judge further concludes that the claimant has requalified for benefits since the separation from this employer. Accordingly, benefits are allowed and the account of the employer shall not be charged.

DECISION:

The November 9, 2018, Statement of Charges for the third quarter of 2018 is modified in favor of the appellant. The employer has filed a timely protest and a timely appeal from that Statement of Charges. 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.

Christine A. Louis
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Decision Dated and Mailed

cal/scn