

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**CACIA MOON**  
Claimant

**Z-BA LLC**  
Employer

**APPEAL 17A-UI-09185-DB**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 04/30/17  
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:**

The employer filed an appeal from the Statement of Charges dated August 9, 2017, for the second quarter of 2017. An in-person hearing was held in Des Moines, Iowa on September 26, 2017, pursuant to due notice. The claimant did not participate. The employer did participate through witness Nasrin Ghorbani. The employer's Exhibits 1 – 3 were admitted. The administrative law judge took official notice of the claimant's unemployment insurance benefits records.

**ISSUES:**

Was the employer's protest timely?  
Is 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:

Having reviewed all of the evidence in the record, the administrative law judge finds:

A notice of claim was mailed to the employer on May 24, 2017. See Exhibit 1. It was mailed after the due date that the employer's statement of protest was to be returned to Iowa Workforce Development. The employer did not receive a notice of claim in time to make a timely protest. Claimant's bookkeeper contacted Iowa Workforce Development and was told there was nothing that could be done because the protest was too late.

Employer sent in a late statement of protest due to a voluntary quit; however, a decision dated June 23, 2017 (reference 03) was issued finding that the employer's protest was too late. The employer did not receive a copy of the decision dated June 23, 2017 (reference 03) as the employer's listed address on the decision does not include the employer's suite number.

The employer first became aware of the decision dated June 23, 2017 (reference 03) when Ms. Ghorbani visited the Iowa Workforce Development office in person. Employer filed an appeal

that same day Ms. Ghorbani visited the office on September 7, 2017. The employer had received the statement of charges for the second quarter of 2017, which is what prompted Ms. Ghorbani to visit the local office.

The issue of the reason for the separation has not yet been investigated or adjudicated at the claims level but has been remanded for determination. See appeal decision 17A-UI-09184-DB.

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

For the reasons that follow, the administrative law judge concludes as follows:

Iowa Code § 96.6(2) provides:

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. The representative shall promptly examine the claim and any protest, take the initiative to ascertain relevant information concerning the claim, and, on the basis of the facts found by the representative, shall determine whether or not the claim is valid, the week with respect to which benefits shall commence, the weekly benefit amount payable and its maximum duration, and whether any disqualification shall be imposed. The claimant has the burden of proving that the claimant meets the basic eligibility conditions of § 96.4. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to § 96.5, except as provided by this subsection. The claimant has the initial burden to produce evidence showing that the claimant is not disqualified for benefits in cases involving § 96.5, subsection 10, and has the burden of proving that a voluntary quit pursuant to § 96.5, subsection 1, was for good cause attributable to the employer and that the claimant is not disqualified for benefits in cases involving § 96.5, subsection 1, paragraphs "a" through "h". Unless the claimant or other interested party, after notification or within ten calendar days after notification was mailed to the claimant's last known address, files an appeal from the decision, the decision is final and benefits shall be paid or denied in accordance with the decision. If an administrative law judge affirms a decision of the representative, or the appeal board affirms a decision of the administrative law judge allowing benefits, the benefits shall be paid regardless of any appeal which is thereafter taken, but if the decision is finally reversed, no employer's account shall be charged with benefits so paid and this relief from charges shall apply to both contributory and reimbursable employers, notwithstanding § 96.8, subsection 5.

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 filed its appeal of the Statement of Charges within the time period prescribed by the Iowa Employment Security Law but the issue is moot because the employer's protest has been found to be timely. The issue of the reasons for the separation has been remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination. In the meantime, the charge is moot until the separation has been resolved.

**DECISION:**

The employer's appeal to the August 9, 2017, Statement of Charges for the second quarter of 2017, is timely but the charge is moot until the separation issue is resolved because the employer's protest has been found to be timely.

---

Dawn Boucher  
Administrative Law Judge

---

Decision Dated and Mailed

db/rvs