

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**SUSAN J WARNER**  
Claimant

**SIoux CITY COMMUNITY SCHOOL DIST**  
Employer

**APPEAL 17A-UI-07697-SC-T**  
**ADMINISTRATIVE LAW JUDGE**  
**DECISION**

**OC: 12/18/16**  
**Claimant: Respondent (4R)**

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Iowa Code § 96.6(2) – Timeliness of Protest  
Iowa Code § 96.7(2)a(6) – Appeal from the Statement of Charges  
Iowa Code § 96.5(1)g - Requalification

**STATEMENT OF THE CASE:**

Sioux City Community School District (employer) filed an appeal from the Statement of Charges dated July 15, 2017 for the second quarter of 2017. A hearing was held on August 16, 2017, pursuant to due notice. Susan J. Warner (claimant) registered a phone number for the hearing but did not answer when called for the hearing. The employer participated through Assistant Human Resources Director, Stefanie Verros. Employer's Exhibit 1 was received. Official notice was taken of the administrative record, specifically the claimant's database readout (DBRO) and wage history, as well as the agency record related to the unemployment insurance decision dated January 18, 2017, reference 01.

**ISSUE:**

Is the employer's protest timely?

Did the employer file a timely appeal from the Statement of Charges?

Has the claimant requalified for benefits since her separation from the employer?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant opened her claim for benefits the week of December 18, 2016. Her weekly benefit amount (WBA) was \$180.00. Notice of the claimant's claim was sent to the employer on December 23, 2016 with a response deadline of January 3, 2017. The employer responded by the deadline and stated the claimant was still employed part-time. A fact-finding interview was held on January 17, 2017. The following day, the unemployment insurance decision dated January 18, 2017, reference 01, was issued which denied benefits because the claimant had reasonable assurance of continued employment after the customary holiday recess. The employer's account would not be charged.

On February 21, 2017, the claimant retired from employment with the employer. (Employer's Exhibit 1.) She was an IPERS eligible employee and would have become eligible for her pension benefits at that time.

The claimant had another employer, Aramark Campus LLC (account number 359061), beginning in the fourth quarter of 2016. She earned wages in the amount of \$3,926.00 during the second quarter of 2017 with Aramark Campus, LLC, after her separation from the employer. The claimant requalified for benefits since her separation from the employer by earning ten times her weekly benefit amount in insured wages.

The claimant reactivated her claim for benefits on May 21, 2017. On July 15, 2017, the employer received its Statement of Charges. This was the first time that the employer learned the claimant was allowed to receive benefits. The employer filed its appeal to the Statement of Charges on July 28, 2017.

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

For the reasons that follow, the administrative law judge concludes the employer's appeal to the Statement of Charges is timely and the claimant has requalified for benefits since her separation from the employer.

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 filed its appeal of the Statement of Charges within the time period prescribed by the Iowa Employment Security Law because it had not received prior notice that the claimant was allowed to receive benefits. The last information the employer received from IWD was that benefits were denied. 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 Statement of Charges dated July 15, 2017 for the second quarter of 2017 is modified in favor of the appellant. The employer has filed a timely appeal from that Statement of Charges, as it did not receive notice that the claimant was allowed to receive benefits. 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.

**REMAND:**

The issues of whether the claimant is receiving a pension and, if so, whether the pension is deductible from unemployment insurance benefits are remanded to the Benefits Bureau for an initial investigation and determination.

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Stephanie R. Callahan  
Administrative Law Judge

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Decision Dated and Mailed

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