

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

FRANCIS D KLINE

Claimant

PRO RESOURCES INC

Employer

APPEAL 20A-UI-04108-AW-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 12/08/19

Claimant: Respondent (4)

Iowa Code Chapter 95 – Requalification

Iowa Code § 96.6(2) – Filing – Timely protest

Iowa Code § 96.7(2)(a)(6) – Appeal from the Statement of Charges

STATEMENT OF THE CASE:

Employer filed an appeal from the Statement of Charges dated May 8, 2020 for the first quarter of 2020. The parties were properly notified of the hearing. A telephone hearing was held on June 2, 2020, at 8:00 a.m. Claimant participated. Employer participated through Lauren Arroyo, Corporate Administrator. No exhibits were admitted. Official notice was taken of the administrative record.

ISSUES:

Whether employer's protest is timely.

Whether employer's appeal from the statement of charges is timely.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant filed a claim for unemployment insurance benefits effective December 8, 2019. A Notice of Claim was mailed to employer on December 13, 2019. Employer did not receive the Notice of Claim and, thus, did not submit a Statement of Protest. Employer received the Statement of Charges mailed on May 8, 2020 for the first quarter of 2020, which included a charge for the claimant. This was employer's first notice of claimant's claim for benefits. Employer filed an appeal of the Statement of Charges via facsimile on May 11, 2020. Employer is protesting the claim on the basis that claimant was separated from employment on January 29, 2019 for alleged misconduct. Claimant has requalified for benefits since separating from employer by earning ten times his weekly benefit amount.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes employer's protest is timely and employer's appeal from the statement of charges is timely.

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.

Iowa Admin. Code r. 871-26.4 provides, in relevant part:

2. An appeal from an initial decision concerning the allowance or denial of benefits shall be filed, by mail, facsimile, or e-mail, online, or in person, not later than ten calendar days, as determined by the postmark or the date stamp after the decision was mailed to the party at its last-known address and shall state the following:

- a. The name, address and social security number of the claimant;
- b. A reference to the decision from which appeal is taken; and,
- c. The grounds upon which the appeal is based.

3. Notwithstanding the provisions of subrule 26.4(2), a contributory employer, which has not previously received a notice of the filing of a valid claim for benefits, may appeal an individual's eligibility to receive benefits within 30 days from the mailing date of the quarterly statement of benefit charges.

4. Also notwithstanding the provisions of subrule 26.4(2), a reimbursable employer, which has not previously received a notice of the filing of a valid claim for benefits, may appeal an individual's eligibility to receive benefits within 15 days of the mailing date of the quarterly billing of benefit charges.

Iowa Code section 96.5(2)a provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:

a. The disqualification shall continue until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

Employer appealed the Statement of Charges, which was its first notice of the claim, within thirty days. Employer timely protested the notice of claim and timely appealed the statement of charges. Claimant has requalified for benefits since his separation from employer. Accordingly, benefits are allowed provided claimant is otherwise eligible. Employer shall not be charged.

DECISION:

Employer filed a timely appeal of the Statement of Charges, as it did not receive the Notice of Claim. The Statement of Charges mailed May 8, 2020 is modified in favor of appellant. Claimant has requalified for benefits. Benefits are allowed provided claimant is otherwise eligible. The account of the employer shall not be charged.



Adrienne C. Williamson
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June 17, 2020
Decision Dated and Mailed

acw/scn