

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

PRISCILLA L MISHLER
Claimant

PRO RESOURCES INC
Employer

APPEAL 20A-UI-04109-AW-T
ADMINISTRATIVE LAW JUDGE
DECISION

OC: 12/15/19
Claimant: Respondent (1)

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 mailed 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 8:30 a.m. Claimant did not participate. 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 15, 2019. A Notice of Claim was mailed to employer on December 20, 2019. Employer submitted its Statement of Protest via facsimile on December 23, 2019. Iowa Workforce Development (IWD) received employer's protest on December 23, 2019. The protest deadline was December 30, 2019. Employer indicated on its protest that claimant was still employed full-time. Employer received the Statement of Charges mailed May 8, 2020 for the first quarter of 2020, which included a charge for claimant. Employer filed an appeal of the Statement of Charges via facsimile on May 11, 2020. IWD received employer's appeal on May 11, 2020.

Employer does not protest any weekly claims or benefits paid during claimant's temporary layoff prior to her return to work on January 6, 2020. Claimant filed a weekly claim for the week ending December 21, 2019 and reported earnings in excess of her weekly benefit amount, so no benefit payment was issued to claimant for that week. Claimant filed a weekly claim for the week ending December 28, 2019 and reported no earnings; a benefit payment of \$354.00 was issued to claimant for that benefit week. No weekly claims have been filed and no benefits have been paid since the benefit week ending December 28, 2019.

By appealing the Statement of Charges, employer intended to protest any claim for benefits by claimant after her separation from employment on January 23, 2020. If the claimant reopens her claim, then a new notice of claim will be issued; employer can protest the claim based on the separation at that time.

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.

IWD received employer's Statement of Protest and appeal of the Statement of Charges prior to the respective deadlines. Therefore, employer's protest and appeal are timely. The Statement of Charges reflects benefits paid to claimant as a result of her temporary layoff. Employer does not object to claimant's receipt of those benefits. Therefore, the Statement of Charges mailed May 8, 2020 is affirmed. If claimant seeks further benefits by reopening her claim, Iowa Workforce Development will notify employer; employer will then have a chance to protest based on the separation.

DECISION:

Employer filed a timely protest of the Notice of Claim and appeal of the Statement of Charges. The Statement of Charges mailed May 8, 2020 for the first quarter of 2020 is affirmed.



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

acw/scn