

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

CRYSTAL R MORGAN
Claimant

BLACKHAWK SERVICES CORP
Employer

APPEAL 22A-UI-11143-LJ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 12/20/20
Claimant: Respondent (1)

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:

On April 29, 2022, Blackhawk Services Corporation (employer) filed an appeal from the statement of charges dated February 9, 2022, reference 05, for the fourth quarter of 2020. After proper notice was issued, a telephone hearing was held at 2:00 p.m. on Friday, June 24, 2022, pursuant to due notice. Crystal R. Morgan (claimant) did not participate. The employer did participate through Jena Rice, Unemployment Claims Specialist with Insperity PEO Services. The department's Exhibits D-1 through D-4 were admitted into the record.

ISSUES:

Was the employer's protest timely?
Was 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: The claimant opened a claim for benefits with an effective date of December 20, 2020, prior to separating from employment. The notice of claim was mailed to the employer's address of record on December 24, 2020. The employer did not receive that notice. Iowa Workforce Development next sent the employer to its address of record the statement of charges mailed November 9, 2021, for the third quarter of 2021. (Exhibit D-4) Rice could not recall whether she received this statement of charges. Iowa Workforce Development later sent the employer to its address of record the statement of charges mailed February 9, 2022, for the fourth quarter of 2021. (Exhibit D-2) The employer filed its appeal of that statement of charges on April 29, 2022.

For the reasons that follow, the administrative law judge concludes the employer did not timely file its appeal to the statement of charges.

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. [Emphasis added.]

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.

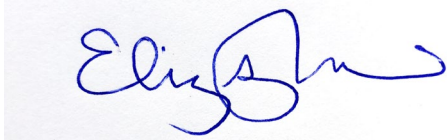
3. Notwithstanding the provisions of subrule 26.4(2), a contributory employer, which has not previously received a notice of the filing of a valid claim for benefits, may appeal an individual's eligibility to receive benefits within 30 days from the mailing date of the quarterly statement of benefit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

The administrative law judge understands that the employer has no record of receiving the notice of claim. However, even if the employer did not receive the notice of claim – and even if the employer did not receive the November 9, 2021 statement of charges – the employer still failed to respond in a timely manner to the February 9, 2022 statement of charges, which it concedes it received. The employer received a statement of charges mailed February 9, 2022 showing that the claimant was receiving benefits and the employer was being charged for those benefits. It did not appeal in a timely manner to determine the claimant's eligibility. The employer did not file its appeal within 30 days of the first notification it had the claimant was receiving benefits following the change in employment status.

DECISION:

The February 9, 2022, reference 05, statement of charges for the fourth quarter of 2021 is affirmed. The employer did not timely file an appeal from the first notification it had that the claimant was receiving benefits and it was being charged.



Elizabeth A. Johnson
Administrative Law Judge
Unemployment Insurance Appeals Bureau

June 30, 2022
Decision Dated and Mailed

lj/lj