

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**KARI KENNEDY**  
Claimant

**APPEAL 19A-UI-06882-CL-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**FLASH PHOTOGRAPHY**  
Employer

**OC: 03/17/19  
Claimant: Respondent (1R)**

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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

**STATEMENT OF THE CASE:**

The employer filed an appeal from the Statement of Charges dated August 9, 2019, for the second quarter of 2019. A hearing was scheduled and held on September 23, 2019, pursuant to due notice. Claimant participated. Employer participated through accountant Tammie Toynebee. The administrative law judge took official notice of the administrative record, including the Notice of Claim and protest.

**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 Notice of Claim was mailed to the employer's address of record on March 22, 2019. The employer did not receive that notice. The first notice of the claimant's claim for benefits was the receipt of the Statement of Charges mailed August 9, 2019 for the second quarter of 2019. The employer filed its appeal of that Statement of Charges on August 28, 2019. Employer is protesting the claim on the basis that claimant is still employed on a part-time basis. The issues of the claimant's eligibility for benefits and employer's chargeability have not been adjudicated by the Benefits Bureau of the Iowa Workforce Development.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the employer filed a timely appeal from 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.

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 did not receive the notice of claim indicating the claimant had filed a claim for benefits. The employer's appeal of that Statement within thirty days is timely.

**DECISION:**

The August 9, 2019, Statement of Charges for the second quarter of 2019 is affirmed pending a determination on whether claimant is eligible to receive benefits and whether employer should be charged for those benefits. The employer has filed a timely appeal from that Statement of Charges, as the Notice of Claim was not received.

**REMAND:**

The issues of whether claimant is eligible for benefits and whether the employer should be relieved of charges for the benefits are remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination.

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Christine A. Louis  
Administrative Law Judge  
Unemployment Insurance Appeals Bureau  
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Decision Dated and Mailed

cal/scn