

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

DANETTE L MEYER
Claimant

GOLDMAN ENTERPRISES LLC
Employer

APPEAL 18A-UI-02729-CL-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 11/26/17
Claimant: Respondent (1R)**

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 February 9, 2018, for the fourth quarter of 2017. The parties were properly notified about the hearing. A telephone hearing was held on March 27, 2018. Claimant did not answer at the telephone number she provided for the hearing and did not participate. Employer participated through owners Lisa Goldman and Perry Goldman. Official notice was taken of the administrative record, including the notice of claim and the December 31, 2017, decision by the Unemployment Insurance Tax Bureau finding employer a successor business of Sherry Fisher (323515).

ISSUES:

Is 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: Employer purchased its business from Sherry Fisher (323515) on November 27, 2017. Claimant filed a claim effective November 26, 2017. A notice of claim was mailed to employer on November 30, 2017. The notice of claim was directed to Sherry Fisher at 101 N. Jefferson St, Sigourney, Iowa 52591. Employer passed on all mail it received addressed to Sherry Fisher directly to Ms. Fisher without opening it.

On December 31, 2017, Iowa Workforce Development Unemployment Insurance Tax Bureau issued a decision finding employer acquired the business of Sherry Fisher effective November 27, 2017, and all past experience will transfer to employer's account.

The first notice employer had of claimant's claim for benefits was the receipt of the Statement of Charges mailed February 9, 2018, for the fourth quarter of 2017. It included charges for claimant's benefits. Employer filed an appeal on February 27, 2018.

Employer asserts claimant resigned and/or refused an offer of suitable work on November 27, 2017.

REASONING AND CONCLUSIONS OF LAW:

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.

While Sherry Fisher may have received notice of the claim, it would not have been until after November 27, 2017, when she no longer owned the business. Iowa Workforce Development has determined employer is liable for any debt incurred by Fisher prior to November 27, 2017, but not afterward. Employer is only liable for its own debt going forward, and it was not notified of this claim until it received the February 9, 2018, Statement of Charges. The employer's appeal of that Statement within thirty days is timely. Therefore, 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 issue of whether claimant's separation and/or refusal of work disqualify her from receiving unemployment insurance benefits is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination.

DECISION:

The February 9, 2018, Statement of Charges for the fourth quarter of 2017 is affirmed pending a determination by the Benefits Bureau of Iowa Workforce Development on whether claimant's separation from work and/or refusal of work disqualifies her from receiving unemployment insurance benefits. The employer has filed a timely appeal from that Statement of Charges, as the Notice of Claim was not received.

REMAND:

The issue of whether claimant's separation and/or refusal of work disqualify her from receiving unemployment insurance benefits is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination.

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

cal/scn