

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JAY D PATEL

Claimant

PARKSIDE PETROLEUM LLC

Employer

APPEAL 19A-UI-09175-AW-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 08/25/19

Claimant: Respondent (1R)

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

Iowa Code § 96.7(2)(A)(6) – Charges – Appeal from quarterly statement of charges

STATEMENT OF THE CASE:

Employer filed an appeal from the Statement of Charges dated November 8, 2019 for the third quarter of 2019. The parties were properly notified of the hearing. A telephone hearing was held on December 16, 2019, at 11:00 a.m. Claimant participated. Employer participated through Kim Miller, Director of Finance, and Chad Keune, Owner. 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 worked for a business which was sold to Parkside Petroleum, LLC on June 14, 2019. Claimant did not work for Parkside Petroleum, LLC. When claimant filed a claim for unemployment insurance benefits effective August 25, 2019, a notice of claim was mailed to the predecessor business at the predecessor's address on August 30, 2019. Employer did not receive the notice of claim.

Employer received its Statement of Charges mailed November 8, 2019 for the third quarter of 2019, which included a charge for claimant. Employer filed an appeal of the Statement of Charges online on November 20, 2019. Claimant did not appear on any of employer's previous statements of charges. Employer first received notice of the claim when it received the November 8, 2019 Statement of Charges.

There has been no initial investigation and determination regarding claimant's separation from employment. The question of whether claimant's separation was disqualifying will be remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination.

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 Admin. Code r. 871-24.35(2) provides:

2. The submission of any payment, appeal, application, request, notice, objection, petition, report or other information or document not within the specified statutory or regulatory period shall be considered timely if it is established to the satisfaction of the division that the delay in submission was due to division error or misinformation or to delay or other action of the United States postal service.

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.

Employer did not receive the notice of claim and, thus, could not protest the claim prior to the due date. Employer first learned of the claim when it received its statement of charges and appealed the statement of charges prior to the due date. Therefore, employer timely protested the notice of claim and timely appealed the statement of charges.

DECISION:

Employer filed a timely protest of the notice of claim and a timely appeal of the statement of charges.

REMAND:

The issue of separation from employment is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination.

Adrienne C. Williamson
Administrative Law Judge
Unemployment Insurance Appeals Bureau
Iowa Workforce Development
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515)478-3528

Decision Dated and Mailed

acw/scn