

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

MEAGAN S VANDEMAAT
Claimant

APPEAL NO. 20A-UI-01319-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

CHATEAU KNOLL LLC
Employer

OC: 06/30/19
Claimant: Respondent (5R)

Iowa Code § 96.7-2-a(6) – Statement of Charges
Iowa Code § 96.6-2 – Timeliness of Protest

STATEMENT OF THE CASE:

Employer filed an appeal from a decision of a statements of charges dated November 8, 2019, reference 00, which assessed charges for the third quarter of 2019. After due notice, a telephone conference hearing was scheduled for and held on March 2, 2020. Claimant participated personally. Employer participated by Josh Kennedy, Bryan Tank, and Barb Ditzenberger. Employer's Exhibits 1-3 were admitted into evidence.

ISSUES:

Whether the statement of charges is correct.

Whether the employer's protest is timely.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: A statement of charges was mailed to the employer on November 8, 2019. The employer appealed the statement of charges on the basis that they had never received the original Notice of Claim at any time when claimant filed and had not received this Statement of charges until well into January 2020.

Employer stated that they had registered their address as

CHATEAU KNOLL LLC
100 TRISTATE INTERNATIONAL
STE 200
LINCOLNSHIRE IL 60069

Unfortunately, because of truncation associated with IWD documents, the "AL" was missing off of the street address and the "STE 200" was completely missing from employer's address. Employer stated that there are certainly well in excess of 50 different businesses within the

office complex where they operate, and items sent without a suite number are often not delivered.

Employer additionally stated that they have been in contact with IWD concerning the address issue and have been told that as a result of integrating information from two different platforms, the two sides are currently not communicating fully with one another and the result can be information not getting out.

Search of records shown no Notice of Claim has ever been sent to employer, either through the mail or through the SIDES / SOPHIA system (Employer had not registered for this system).

Claimant separated from her employment with employer in February, 2019. Claimant did not file an Original Claim until June 30, 2019.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.6(2) provides, in pertinent part:

The representative shall promptly examine the claim and any protest, take the initiative to ascertain relevant information concerning the claim, and, on the basis of the facts found by the representative, shall determine whether or not the claim is valid, the week with respect to which benefits shall commence, the weekly benefit amount payable and its maximum duration, and whether any disqualification shall be imposed. . . . Unless the claimant or other interested party, after notification or within ten calendar days after notification was mailed to the claimant's last known address, files an appeal from the decision, the decision is final and benefits shall be paid or denied in accordance with the decision.

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.

In this matter, it has not been shown that claimant knew or should have known of claimant's filing an original claim in this matter until sometime in late January, 2020. As IWD does not have a record of issuing a Notice of Claim to employer, claimant cannot be held to have not filed a timely protest.

As IWD address listed does not include a suite number for employer and employer's office is in a large business complex, it is reasonable that employer might not have received the Statement of Charges.

It is held that the employer still has not received a Notice of Claim from which they could file a timely Protest.

It is further held that employer's appeal from the Statement of Charges is deemed timely as it was filed within 30 days of the date of receipt of the Statement of Charges, although they reflected a November 8, 2019 mailing date. The lack of delivery was a combination of faults of IWD and the USPS, not of the employer.

This matter will be remanded such that a Notice of Claim can be sent to employer at employer's complete address.

Additionally, the Statement of Charges is deemed to have been timely protested in this matter. As the protest must first be considered, a decision as to the correct or incorrect nature of the Statement of charges is reserved.

DECISION:

The statement of charges dated November 8, 2019, reference 00, is reserved at this time until a Notice of Claim has been sent to employer at employer's complete address. Until employer has been given an opportunity to protest the Notice of Claim, a decision on the Statement of Charges is not timely before the administrative law judge.

This matter will be remanded such that a Notice of Claim can be sent to employer at employer's complete address.

Blair A. Bennett
Administrative Law Judge

Decision Dated and Mailed

bab/scn