

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

LOGAN HEERAN
Claimant

PORTER MOVING COMPANY LLC
Employer

APPEAL 21A-UI-06732-DZ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 04/05/20
Claimant: Respondent (1R)

Iowa Code § 96.6(2) – Timeliness of Protest
Iowa Code § 96.7(2)a(6) – Appeal from the Statement of Charges
Iowa Admin. Code r. 871-26.4 – Commencement of unemployment benefits contested case

STATEMENT OF THE CASE:

Porter Moving Company, the employer/appellant, filed an appeal from the statement of charges dated February 9, 2021 for the fourth quarter of 2021. A hearing was held on May 13, 2021, pursuant to due notice. The employer participated through John Davis, operations manager. Mr. Heeran did not register for the hearing and did not participate. The department's Exhibits D1 and D2 and Employer's Exhibit 1 were admitted as evidence.

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: Mr. Heeran was separated from employment in February 2020. He filed a claim for benefits effective April 5, 2020. A notice of claim was mailed to the employer's address of record on April 13, 2020. The notice of claim listed "Brenda Heeran" but listed Mr. Heeran's social security number. The employer received the notice, reviewed its records and found that Brenda Heeran never worked for the employer. The employer check box one "The individual never worked for this employer" on the notice and mailed the notice back to Iowa Workforce Development on April 16, 2020. The employer never received a notice of claim listing Mr. Heeran. The employer first received notice of Mr. Heeran's claim for benefits when it received the statement of charges mailed on February 9, 2021 for the fourth quarter of 2021. The employer filed its appeal of that statement of charges on February 23, 2021.

The issue of whether Mr. Heeran's separation from employment qualifies him for benefits has not yet been investigated or decided by the Benefits Bureau of Iowa Workforce Development.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the employer did file its appeal to the statement of charges on time.

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

Filing – determination – appeal.

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:

Employer contribution and reimbursements.

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.

The employer did not receive a notice of claim that Mr. Heeran had filed a claim for benefits. The employer filed its appeal of the statement of charges within thirty days. The employer's appeal was filed on time.

DECISION:

The employer filed its appeal from the statement of charges on time. The February 9, 2021 statement of charges for the fourth quarter of 2021 is affirmed, pending the outcome of the remanded issue.

REMAND:

The issue of whether Mr. Heeran's separation from employment qualifies him for benefits is remanded to the Benefits Bureau of Iowa Workforce Development for investigation and an unemployment insurance decision.



Daniel Zeno
Administrative Law Judge

May 21, 2021
Decision Dated and Mailed
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dz/kmj