

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**WESLEY E MCDONALD**  
Claimant

**APPEAL 19A-UI-04378-CL-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**ATLANTIC BOTTLING CO**  
Employer

**OC: 02/10/19  
Claimant: Respondent (4)**

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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  
Iowa Code Chapter 96 – Requalification

**STATEMENT OF THE CASE:**

The employer filed an appeal from the Statement of Charges dated May 9, 2019, for the first quarter of 2019. A hearing was scheduled and held on June 24, 2019, pursuant to due notice. Claimant participated. Employer participated through human resource business partner Shirley Jones.

**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 February 15, 2019. The employer received the notice and faxed a response to Iowa Workforce Development on February 17, 2019. Unbeknownst to employer, Iowa Workforce Development did not receive the fax.

Employer's first notice it was being charged for claimant's benefits was the receipt of the Statement of Charges mailed May 9, 2019, for the first quarter of 2019. The employer filed its appeal of that Statement of Charges on May 28, 2019. Employer is protesting the claim on the basis that claimant resigned on August 23, 2018.

The claimant has requalified for benefits since the separation from the employer.

**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.

The administrative law judge concludes that the employer timely protested the claim and the employer's appeal of the Statement of Charges within thirty days is timely. The administrative law judge further concludes that the claimant has requalified for benefits since the separation from this employer. Accordingly, benefits are allowed and the account of the employer shall not be charged.

**DECISION:**

The Statement of Charges dated May 9, 2019, for the first quarter of 2019 is modified in favor of the appellant. The employer has filed a timely protest and a timely appeal from that Statement of Charges. The claimant has requalified for benefits since the separation. Benefits are allowed, provided the claimant is otherwise eligible. The account of the employer shall not be charged.

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Christine A. Louis  
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Decision Dated and Mailed

cal/scn