

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**JACOB C BUCK**  
Claimant

**BOULDER CONTRACTING LLC**  
Employer

**APPEAL 20A-UI-04721-AD-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 12/16/18  
Claimant: Respondent (1)**

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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 Admin. Code r. 871-26.4(4) – Commencement of Contested Case

**STATEMENT OF THE CASE:**

On May 18, 2020, Boulder Contracting LLC (employer/appellant) filed an appeal from the Statement of Charges for the first quarter of 2020, dated May 8, 2020. The Statement of Charges included charges for Jacob Buck’s (claimant/respondent) unemployment insurance benefits in that quarter.

A telephone hearing was held on July 9, 2020. The parties were properly notified of the hearing. Claimant did not register a number for the hearing and did not participate. Employer participated through Payroll/HR Amber Hoy.

Official notice was taken of the administrative record.

**ISSUES:**

Is the employer’s protest timely?  
Did the employer timely appeal the Statement of Charges?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds:

On May 18, 2020, employer appealed the Statement of Charges mailed May 8, 2020, which included charges for claimant’s unemployment insurance benefits in the first quarter of 2020. This payment is for a claim with an original claim date of December 16, 2018.

Claimant subsequently filed a new claim with an original claim date of December 15, 2019. A fact-finding interview was scheduled and a decision was issued on January 10, 2020, finding claimant voluntarily quit on April 7, 2019, and was therefore disqualified from receiving benefits.

Claimant had previously appeared on a Statement of Charges dated August 9, 2019 for the quarter ending June 30, 2019. Employer did not appeal that Statement of Charges.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons set forth below, the Statement of Charges for the first quarter of 2020, dated May 8, 2020, is AFFIRMED

Iowa Code section 96.6(2) provides:

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. 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. The claimant has the burden of proving that the claimant meets the basic eligibility conditions of section 96.4. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to section 96.5, except as provided by this subsection. The claimant has the initial burden to produce evidence showing that the claimant is not disqualified for benefits in cases involving section 96.5, subsections 10 and 11, and has the burden of proving that a voluntary quit pursuant to section 96.5, subsection 1, was for good cause attributable to the employer and that the claimant is not disqualified for benefits in cases involving section 96.5, subsection 1, paragraphs "a" through "h". 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. If an administrative law judge affirms a decision of the representative, or the appeal board affirms a decision of the administrative law judge allowing benefits, the benefits shall be paid regardless of any appeal which is thereafter taken, but if the decision is finally reversed, no employer's account shall be charged with benefits so paid and this relief from charges shall apply to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

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(4) provides:

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 from the mailing date of the quarterly billing of benefit charges

The charge for claimant on the May 18, 2020 Statement of Charges is for the claim year beginning December 16, 2018. Claimant was not disqualified from receiving benefits until the subsequent claim year. This is due to employer not previously protesting the claim or appealing the previous statement of charges on which claimant appeared.

At this point, the employer cannot challenge claimant's eligibility to receive benefits or being charged for those benefits because it had prior notice of the claim, but did not protest the claim within the ten-day deadline or appeal the prior Statement of Charges. Therefore, claimant is allowed benefits and the employer's account may be charged.

Claimant is disqualified for benefits for the claim year beginning December 30, 2019, based on the January 10, 2020 decision finding claimant voluntarily quit on April 7, 2019. Claimant's disqualification for that claim year will continue until he has earned wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

**DECISION:**

The Statement of Charges for the first quarter of 2020, dated May 8, 2020, is **AFFIRMED**



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Andrew B. Duffelmeyer  
Administrative Law Judge  
Unemployment Insurance Appeals Bureau  
1000 East Grand Avenue  
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Fax (515) 478-3528

July 22, 2020  
Decision Dated and Mailed

abd/sam