

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JACOB D KLINGEMAN
Claimant

GFPNL INC
Employer

APPEAL 19A-UI-04906-LJ-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 11/25/18
Claimant: Respondent (1)

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

STATEMENT OF THE CASE:

On June 14, 2019, 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 July 15, 2019, pursuant to due notice. Claimant Jacob Klingeman participated in the hearing. Employer GFPNL, Inc. participated through Chris Querrey, Owner.

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 November 29, 2018. The employer did not receive that notice. Querrey does not know whether his partner received the Notice of Claim and failed to route it to him, or whether it was placed in another entity's mailbox.

The first notice of the claimant's claim for benefits was the receipt of the Statement of Charges mailed February 8, 2019, for the fourth quarter of 2018. The employer did not appeal that Statement of Charges. Querrey reached out to claimant directly at the time he received this Statement of Charges, and claimant said he would contact Iowa Workforce Development about the issue.

The second notice of the claimant's claim for 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 June 14, 2019. Querrey initially contacted claimant when he received this Statement of Charges, and claimant denied filing his claim against this employer.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the employer failed to file a timely appeal from the Statement of Charges.

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 employer did not file an appeal of the Statement of Charges within thirty days of the mailing date. Querrey admits the employer received the fourth quarter Statement of Charges and could have appealed that decision. However, the employer chose not to appeal at that time, and instead the employer just contacted the claimant and left it up to him to resolve the issue. The administrative law judge concludes that the employer did not file its appeal of the Statement of Charges within the time period prescribed by the Iowa Employment Security Law.

DECISION:

The May 9, 2019, Statement of Charges for the first quarter of 2019 is affirmed. The employer has failed to file a timely appeal from that Statement of Charges.

Elizabeth A. Johnson
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515)478-3528

Decision Dated and Mailed

lj/scn