

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

GERALD L MCATEE
Claimant

DYERSVILLE SALES COMPANY
Employer

APPEAL 17A-UI-12121-CL-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 06/25/17
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:

The employer filed an appeal from the Statement of Charges for the third quarter of 2017 that was mailed on November 9, 2017. The parties were properly notified about the hearing. A telephone hearing was held on December 14, 2017. Claimant did not register for the hearing and did not participate. Employer participated through Randy Hess.

ISSUES:

Is the employer's protest timely?
Is the employer's appeal from the Statement of Charges timely?
Is the Statement of Charges correct?

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 June 29, 2017. There is no evidence indicating employer did not receive the notice. The employer failed to file a protest. The Statement of Charges for the third quarter of 2017 was mailed to employer on November 9, 2017. Employer filed an appeal on November 26, 2017.

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.

In this case, employer was notified of the claim in June 2017. Employer failed to file a timely protest. Only employers who had no previous notice of a claim are permitted by law to contest the eligibility of a claimant to receive benefits upon later receipt of a Statement of Charges. In this case, the employer was given prior notice of the claim but failed to act in a timely manner. Therefore, its appeal to the Statement of Charges is considered untimely.

DECISION:

The November 9, 2017, Statement of Charges is affirmed. Employer did not timely protest the claim. The charges shall remain in full force and effect. Benefits are allowed.

Christine A. Louis
Administrative Law Judge
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Decision Dated and Mailed

cal/scn