

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

SHELLY S MADEWELL
Claimant

ACKERMAN INVESTMENT CO
Employer

APPEAL 17A-UI-08842-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/19/17
Claimant: RESPONDENT (2R)

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 a timely appeal from the August 18, 2017, (reference 01), decision that allowed benefits and found the protest untimely. After due notice was issued, a hearing was held on September 20, 2017. The claimant did participate. The employer did participate through Brian Bocken. Department's Exhibit D-1 was received.

ISSUE:

Did the employer file a timely notice of protest and did they file a timely appeal to the statement of charges?

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 March 27, 2017, 2017. The employer did not receive that notice. The first notice of the claimant's claim for benefits was the receipt of the Statement of Charges mailed August 9, 2017 for the second quarter 2017. While the claimant filed for unemployment benefits in March 2017, which is part of the first quarter, agency records indicate she was not paid any benefits until April 6, 2017, which is part of the second quarter of 2017. The claimant's name did not appear on any first quarter statement of charges for this employer. The employer filed its appeal of that Statement of Charges on August 16, 2017 within 30 days of when the second quarter statement of charges was mailed to them on August 9, 2017. After the employer filed an appeal to the second quarter statement of charges, the agency issued a decision on August 18, 2017 finding their protest to be untimely. There issue of the reason for the claimant's separation has not yet been investigated or adjudicated at the claims level.

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 filed its appeal of the Statement of Charges within the time period prescribed by the Iowa Employment Security Law because it did not receive the notice of claim indicating the claimant had filed a claim for benefits. The employer's appeal of that Statement within thirty days is timely. The issue as to the reason for the separation is remanded to the unemployment insurance service center (claims section) of Iowa Workforce Development for an initial investigation and determination.

DECISION:

The August 18, 2017 (reference 01), decision is reversed. The employer has filed a timely protest as they never received the notice of claim. The August 9, 2017, Statement of Charges for the second quarter of 2017 is reversed. The employer has filed a timely appeal from that Statement of Charges, as the Notice of Claim was not received.

REMAND:

The issue as to the reason for the claimant's separation from the employment is remanded to unemployment insurance service center (claims section) of Iowa Workforce Development for an initial investigation and determination.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/rvs