

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

GENIN M AROCHE-GRIJALVA
Claimant

RJ TIDE CONSTRUCTION COMPANY INC
Employer

APPEAL 20A-UI-06047-CL-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 12/08/19
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 May 28, 2020, the employer filed an appeal from Statement of Charges dated May 8, 2020, for the first quarter of 2020. A hearing was scheduled for July 15, 2020, pursuant to due notice. Claimant did not register for the hearing and did not participate. Employer participated through director of human resources Matt Billings. Employer's Exhibit 1 was received.

ISSUES:

Is the employer's protest timely?
Is 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: Claimant filed a claim for unemployment insurance benefits with an effective date of December 8, 2019.

Employer hired an accounting firm to act on its behalf in regard to unemployment proceedings. In 2014, the accounting firm signed up to receive electronic notices of claim through the State Information Data Exchange System (SIDES).

On December 9, 2019, Iowa Workforce Development sent employer's authorized agent an email alert of the notice of claim in the SIDES system. The notice of claim states that a response is due by December 20, 2019. Employer's authorized agent received the email, but did not file a response or notify the employer of the claim.

On May 8, 2020, Iowa Workforce Development mailed a statement of charges for the first quarter of 2020 that included charges for claimant's benefits. When employer learned of the charges, the accounting firm reviewed its internal procedures and admitted it had not been responding to the emailed alerts of notices of claims.

On May 28, 2020, employer appealed the statement of charges.

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's authorized agent had notice of the claim, but did not timely protest. Employer's agent had a reasonable opportunity to protest the claim and does not have a legal excuse for its failure to do so. Therefore, the protest is considered untimely. An employer can appeal a statement of charges only where it has not previously received notice of the claim. In this case, employer had notice through its authorized agent. Therefore, it cannot now appeal the statement of charges. Claimant is allowed benefits and employer may be charged.

DECISION:

The May 8, 2020, Statement of Charges for the first quarter of 2020 is affirmed. The employer had prior notice of the claim and failed to timely protest. Benefits are allowed and employer's account may be charged.



Christine A. Louis
Administrative Law Judge
Unemployment Insurance Appeals Bureau
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July 24, 2020

Decision Dated and Mailed

cal/sam