

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

SARAH L GANNON
Claimant

BOSS LADY INC
Employer

APPEAL 20A-UI-05225-DB-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 04/21/19
Claimant: Respondent (1R)**

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 4, 2020 the employer filed an appeal from the Statement of Charges dated May 8, 2020, for the first quarter of 2020. A hearing was scheduled and held on June 30, 2020, pursuant to due notice. Claimant participated personally. Employer participated through witness Nancy Barton. Official notice was taken of the administrative record.

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: Claimant filed an original claim for unemployment insurance benefits with an effective date of April 21, 2019 in Illinois. The claim is a combined wage claim. The administrative records do not establish any notice of wage transfer being mailed to the employer when the claimant filed her original claim for benefits. However, Ms. Barton testified that she received a notice and faxed in a timely response to Iowa Workforce Development stating that the claimant was still employed in her part-time job at the same hours and wages as her original contract of hire and she was contesting chargeability of any benefits to the employer's account.

The employer's first notice that it was being charged for benefits paid during the April 21, 2019 claim year was the receipt of the statement of charges mailed May 8, 2020 that listed charges for the first quarter of 2020. The employer filed its appeal of that statement of charges on June 4, 2020. The employer intended to protest any charges being issued to its account. The issue of chargeability will be remanded to the Benefits Bureau for an initial investigation.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the employer filed 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 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 was the first notification that the employer would be charged for benefits. The employer's appeal of that statement within thirty days is timely. The issue of whether the employer is chargeable for benefits paid on this combined wage claim is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination.

DECISION:

The May 8, 2020 statement of charges for the first quarter of 2020 is affirmed pending a determination on whether the employer's account shall be charged for benefits paid on this combined wage claim. The employer has filed a timely appeal from the Statement of Charges.

REMAND:

The issue of whether the employer's account is subject to charges shall be remanded to the Benefits Bureau for an initial investigation and determination.

Dawn Boucher
Administrative Law Judge

July 9, 2020
Decision Dated and Mailed

db/scn