

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ALICIA NEELY
Claimant

APPEAL 18A-UI-03392-SC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

ALL STATES AG PARTS INC
Employer

OC: 09/03/17
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:

All States AG Parts, Inc. (employer) filed an appeal from the Statement of Charges dated February 9, 2018, for the fourth quarter of 2017. A hearing was held on April 9, 2018, pursuant to due notice. Alicia Neely (claimant) participated and was represented by Attorney Melissa C. Hasso. The employer participated through Chief Financial Officer Bob Sigurdson and Distribution Manager Robert Koren and was represented by Attorney Jennifer V. Ives. HR Administrator Rachel Heinbuch was sworn in as an employer's witness but did not provide any testimony. The Department's Exhibits D1 and D2 were received. The administrative law judge took official notice 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: The claimant filed a claim for benefits effective September 3, 2017. The employer did not receive a notice of claim from Iowa Workforce Development (IWD). The first notice of the claimant's claim for benefits was the receipt of the Statement of Charges mailed February 9, 2018, for the fourth quarter of 2017. The employer filed its appeal of that Statement of Charges on March 6, 2018. Whether the claimant's separation from the employer qualifies her for unemployment insurance benefits has not yet been investigated or adjudicated by the Benefits Bureau.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the employer filed a timely appeal to 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 filed its appeal of the Statement of Charges within the time period prescribed by the Iowa Employment Security Law because the appeal was filed within 30 days of the date the Statement of Charges was mailed and it did not receive a notice of claim indicating the claimant had filed a claim for benefits. Whether the claimant's separation from the employer qualifies her for unemployment insurance benefits is remanded to the Benefits Bureau of IWD for an initial investigation and determination.

DECISION:

The February 9, 2018, Statement of Charges for the fourth quarter of 2017, is affirmed pending the outcome of the remanded issue. The employer has filed a timely appeal from that Statement of Charges, as a notice of claim was not received.

REMAND:

Whether the claimant's separation from the employer qualifies her for unemployment insurance benefits is remanded to the Benefits Bureau of IWD for an initial investigation and determination.

Stephanie R. Callahan
Administrative Law Judge

Decision Dated and Mailed

src/scn