

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

KIEGAN C CARSTENS
Claimant

ACTIVE THERMAL CONCEPTS INC
Employer

APPEAL 21A-UI-01265-CL-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 04/05/20
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:

The employer filed an appeal from the Statement of Charges dated November 9, 2020, for the third quarter of 2020. A hearing was scheduled and held on February 19, 2021, pursuant to due notice. Claimant participated. Employer participated through operations manager Matt Yamilkosi.

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 a claim for unemployment insurance benefits with an effective date of April 5, 2020. On April 7, 2020, Iowa Workforce Development mailed a notice of claim to the employer's last address of record. The employer very likely received the notice, but did not protest at that time as claimant was on a temporary layoff. After claimant did not return to work by July 6, 2020, and employer learned that he was still collecting unemployment insurance benefits, operations manager Matt Yamilkoski reported his separation from employment twice at <https://uiclaims.iwd.iowa.gov/EmployerSeparation/>. Iowa Workforce Development did not respond to the report.

Employer's first notice that it was being charged for claimant's unemployment insurance benefits was the statement of charges mailed on November 9, 2020. Employer filed an appeal on November 12, 2020.

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. Employer did not initially protest the claim because claimant was laid off. Even though employer did not receive a new notice of claim after claimant was permanently separated from employment, it tried to protest the claim twice on its own by filing a notice of separation on Iowa Workforce Development's website. Iowa Workforce Development did not respond. Because employer did attempt to timely protest this claim, even without receipt of a new notice of claim, this matter should be remanded to the Benefits Bureau of Iowa Workforce Development for an investigation and decision on whether claimant is qualified to receive unemployment insurance benefits after July 6, 2020, based on his separation from employment.

DECISION:

The November 9, 2020, Statement of Charges for the third quarter of 2020 is affirmed pending a determination on whether claimant is qualified to receive benefits. The employer has filed a timely appeal from that Statement of Charges and filed a protest, even without a new notice of claim.

REMAND:

The issue of whether claimant is qualified to receive benefits based on his July 6, 2020, separation from employment is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination.



Christine A. Louis
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March 2, 2021
Decision Dated and Mailed

cal/mh