

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

BRENDA J HASTINGS
Claimant

A & M SERVICES INC
Employer

APPEAL 17A-UI-08399-CL-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 01/01/17
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 an appeal from the Statement of Charges dated August 9, 2017, for the second quarter of 2017. A hearing was scheduled and held on September 7, 2017, pursuant to due notice. The claimant did not participate. The employer did participate through general manager Ryan Kasperbauer. Employer's Exhibit 1 was received.

ISSUE:

Was the employer's protest or 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 January 1, 2017. Claimant was found ineligible for benefits due to her ability to work, but reopened her claim effective March 26, 2017. The notice of reopened claim was mailed to the employer's address of record on April 12, 2017. Employer received the notice of claim and faxed a response on April 20, 2017. Employer stated it offered claimant her job, but she refused it. The agency did not schedule a fact finding interview or issue a decision in response to the protest. No decision has been issued by the agency on claimant's separation from employment. A one-party decision was issued on April 26, 2017, finding claimant able to work and eligible for benefits. The first notice that claimant was receiving benefits was the receipt of the Statement of Charges mailed August 9, 2017, for the second quarter of 2017. The employer filed its appeal of that Statement of Charges on August 15, 2017.

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, and it timely protested the notice of claim. The issue of whether claimant's separation from employment disqualifies her from receiving unemployment benefits is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination.

DECISION:

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 and a timely protest to the Notice of Claim.

REMAND:

The issue of whether claimant's separation from employment disqualifies her from receiving unemployment benefits is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination.

Christine A. Louis
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
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Decision Dated and Mailed

cal/scn