

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

RENA K RICHARDSON
Claimant

APPEAL NO: 14A-UI-02190-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

A W STARK INC
Employer

OC: 12/08/13
Claimant: Respondent (4/R)

Iowa Code § 96.6(2) – Timely Protest

PROCEDURAL STATEMENT OF THE CASE:

The employer appealed a representative's February 21, 2014 determination (reference 05) that held the claimant eligible to receive benefits and the employer's account subject to charge because the employer had not filed a timely protest. The claimant did not respond to the hearing notice or participate at the March 19 hearing. Buck Stark, the franchise owner, appeared on the employer's behalf. Based on the evidence, the employer's arguments, and the law, the administrative law judge concludes the employer established a legal excuse for filing a late protest and this matter will be **Remanded** to the Benefits Bureau to determine the reasons for the claimant's employment separation.

ISSUE:

Did the employer file a timely protest or establish a legal excuse for filing a late protest?

FINDINGS OF FACT:

The claimant established a claim for benefits during the week of December 8, 2013. A notice of claim was mailed to the employer on December 10, 2013. The notice of claim was mailed to #25E Eastdale Plz 1700 1. The employer's address is actually 1700 S 1st Ave STE 25E.

The employer did not receive the December 10, 2013, notice of claim. The first time the employer had any notice that the claimant established a claim for unemployment insurance benefits was when he received a February 7, 2014 Statement of Charges. The Statement of Charges was mailed to the 1700 S 1st Ave STE 25E address. On February 12, 2014, the employer protested charges to its account based on the benefits that had been paid to the claimant since December 8, 2013.

REASONING AND CONCLUSIONS OF LAW:

The law provides that all interested parties shall be promptly notified about an individual filing a claim. The parties have ten days from the date of mailing the notice of claim to protest payment of benefits to the claimant. Iowa Code § 96.6(2). Another portion of Iowa Code § 96.6(2) dealing with timeliness of an appeal from a representative's decision states an appeal must be

filed within ten days after notification of that decision was mailed. In addressing an issue of timeliness of an appeal under that portion of this Code section, the Iowa Supreme Court has held that this statute clearly limits the time to do so, and compliance with the appeal notice provision is mandatory and jurisdictional. *Beardslee v. IDJS*, 276 N.W.2d 373 (Iowa 1979). Also, Iowa Code § 96.7(6) states that an employer who has not received a notice of claim, may within 30 days of receiving a statement of charges appeal to determine the eligibility of a claimant.

The facts indicate the employer did not receive the December 10, 2013 notice of claim. The employer had no notice that the claimant established a claim for benefits and that the employer's account could be charged until the employer received the February 7, 2014 statement of charges. After receiving the statement of charges, the employer immediately protested the charges to its account. The employer established a legal excuse for filing a late protest. This matter will be remanded to the Benefits Bureau for a fact-finding to determine if the reasons for the claimant's employment separation were for disqualifying or nondisqualifying reasons.

DECISION:

The representative's February 21, 2014 determination (reference 05) is modified in the employer's favor. The employer established a legal excuse for filing a late protest. As a result, this matter is **Remanded** to the Benefits Bureau to conduct a fact-finding interview and determine if the reasons for the claimant's employment separation were for disqualifying or nondisqualifying reasons.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs