

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JONATHAN J BOYES
Claimant

APPEAL 17A-UI-12329-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

RIVER VALLEY CAPITAL INSURANCE INC
Employer

OC: 07/23/17
Claimant: RESPONDENT (4)

Iowa Code Chapter 95 – Requalification
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 November 28, 2017, (reference 02) unemployment insurance decision and the Statement of Charges dated November 9, 2017 for the third quarter of 2017. A hearing was held on December 21, 2017, pursuant to due notice. Claimant did not participate. Employer participated through Tom Friedel, President.

ISSUE:

Did the employer file a timely notice of protest?

Did the employer file a timely appeal from the statement of charges?.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The notice of claim was mailed to the employer's address of record on July 26, 2017. The employer did receive the notice and faxed back in their notice of protest before August 8, 2017. The agency never received the employer's fax of their notice of protest. The employer then received the Statement of Charges mailed November 9, 2017, for the third quarter of 2017. The employer filed its appeal of that Statement of Charges on December 1, 2017. The claimant has requalified for benefits since the separation from the employer.

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 because it did fax back in the notice of protest prior to August 8, 2017. The employer's appeal to the November 9, 2017, Statement of Charges is timely. The administrative law judge further concludes that the claimant has requalified for benefits since the separation from this employer. Accordingly, benefits are allowed and the account of the employer shall not be charged.

DECISION:

The November 28, 2017, (reference 02) unemployment insurance decision and the November 9, 2017 Statement of Charges for the third quarter of 2017 are modified in favor of the appellant. The employer has filed a timely appeal from that Statement of Charges, as the Notice of Claim was timely sent in to the agency. The claimant has requalified for benefits since the separation. Benefits are allowed, provided the claimant is otherwise eligible. The account of the employer shall not be charged. The employer's account shall be credited on the next quarterly statement issued in February 2018.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/rvs