

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

**NOLAN J GIPE**  
Claimant

**APPEAL NO: 19A-UI-03530-JC-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**YWCA CLINTON**  
Employer

**OC: 12/23/18**  
**Claimant: Respondent (1)**

Iowa Code § 96.6(2) – Timely Protest  
Iowa Code § 96.7(8)B(4) – Application for redetermination

**STATEMENT OF THE CASE:**

The employer, YWCA Clinton, filed an appeal from the statement of charges dated April 15, 2019, which listed charge information for the first quarter of 2018. Due notice was issued and a hearing was held on May 16, 2019. Claimant participated. Employer participated through witness Shannon Sander-Welzien. Jim Bull also testified. The administrative law judge took official notice of the claimant's unemployment insurance benefits records. Department Exhibits 1 and 2, and Employer Exhibit 1 were admitted into evidence. Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUES:**

Did the employer file a timely protest?  
Did the employer timely appeal the notice of reimbursable benefit charges?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: A notice of claim was mailed to the employer's correct address of record on December 26, 2018 regarding claimant's claim for unemployment insurance benefits which was effective December 23, 2018. The notice of claim stated: "...your account may receive charges based upon wages you have paid this claimant unless you provide Iowa Workforce Development with information justifying relief from such charges" (Department Exhibit 1). The notice of claim also directed: "The employer statement of protest section, including full date, must be completed on all responses" (Department Exhibit 1).

The employer did not complete the employer's statement of protest. It did not provide answers to the questions one through nine regarding the reason for separation. It provided only answers to questions 10, 11 and 14, which involve wages and vacation pay (Department Exhibit 1). The protest was certified correct by Jim Bull on January 3, 2019 (Department Exhibit 1).

No fact-finding interview regarding claimant's separation from employment was conducted because the employer provided no information regarding the claimant's separation which would justify relief from charges. As a result, the claimant was found to be eligible for benefits. On April 15, 2019, the employer received its statement of charges for the first quarter of 2019 and learned it would be charged for the claimant's unemployment insurance benefits (Department Exhibit 2). It appealed the statement of charges on April 29, 2019 (Employer Exhibit 1).

## **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the employer did not file a timely protest to the notice of claim and as such, the conditions for appealing the statement of charges have not been met.

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(8)B(4) provides:

8. Financing benefits paid to employees of nonprofit organizations. b. Reimbursements for benefits paid in lieu of contributions shall be made in accordance with the following: (4) The amount due specified in a bill from the department is conclusive unless, not later than fifteen days following the date the bill was mailed or otherwise delivered to the last known address of the nonprofit organization, the nonprofit organization files an application for redetermination with the department setting forth the grounds for the application. The department shall promptly review the amount due specified in the bill and shall issue a redetermination. The redetermination is conclusive on the nonprofit organization unless, not later than thirty days after the redetermination was mailed or otherwise delivered to the last known address of the nonprofit organization, the nonprofit organization files an appeal to the district court pursuant to subsection 5. An employer who did not receive notice of the claim may appeal to the department for a hearing to determine the eligibility of an individual to receive benefits. Iowa Code section 96.7(2)a(6).

Iowa Admin. Code r. 871-23.52(4) provides:

Unless otherwise required, all determinations by the tax bureau will be sent by regular mail or email, depending on how the employer elected to receive correspondence. The determination will be dated, and the employer or other interested party shall have 30 days from the mailing date printed on the notice to appeal the determination. The employer has 15 days to appeal a Notice of Reimbursable Benefit Charges, Form 65-5324.

Iowa Code section 96.7(2)a(6), which applies to contributory employers, provides guidance in the situation here, which deals with a reimbursable employer. It states that an employer who did not receive notice of the claim may appeal to the department for a hearing to determine the eligibility of an individual to receive benefits. An employer is only allowed to appeal the statement of charges for a hearing to determine the eligibility of the individual to receive benefits if they were not previously notified pursuant to Iowa Code § 96.6(2) of the allowance of benefits.

In this case, the employer was previously notified of the claim when the notice of claim was mailed to it on December 26, 2018 and the employer responded with no disqualifying information on January 3, 2019. The notice of claim alerted the employer: "...your account may receive charges based upon wages you have paid this claimant unless you provide Iowa Workforce Development with information justifying relief from such charges" (Department Exhibit 1). The notice of claim also directed: "The employer statement of protest section, including full date, must be completed on all responses" (Department Exhibit 1). The employer did timely receive the notice of claim but chose not to provide disqualifying information or answer all questions when it submitted its response, certified correct by Mr. Bull. As such, the conditions for appealing the statement of charges under Iowa Code § 96.7(2)a(6) have not been met.

The employer was not deprived of a reasonable opportunity to assert the protest in a timely fashion. Therefore, the administrative law judge concludes that the employer appeal to the first quarter statement of reimbursable charges is untimely. The statement of charges dated April 15, 2019 is affirmed.

**DECISION:**

The statement of charges dated April 15, 2019 is correct. The employer failed to file a timely protest. The conditions for appealing the statement of charges have not been met. The charges will remain in effect and claimant is allowed benefits.

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Jennifer L. Beckman  
Administrative Law Judge

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Decision Dated and Mailed

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