

**IN THE IOWA ADMINISTRATIVE HEARINGS DIVISION  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**PIERRE BURKE**

Claimant

**SEDONA STAFFING INC**

Employer

**APPEAL 24A-UI-02313-ED-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 02/19/23**

**Claimant: Respondent (2)**

Iowa Code § 96.6(2) – Timeliness of Protest

Iowa Code Chapter 96 – Requalification

Iowa Code § 96.7(2)a(6) – Appeal from the Statement of Charges

**STATEMENT OF THE CASE:**

On February 23, 2024, Sedona Staffing Inc (employer) filed an appeal from the statement of charges dated February 9, 2024, for the fourth quarter of 2023. A hearing was scheduled for March 20, 2024, pursuant to due notice. The claimant did not participate in the hearing. The employer participated in the hearing through Colleen McGuinty. The Employer's Exhibit A was admitted into evidence. The Department's Exhibits D1, D2, D3, D4, D5 and D6 were admitted into the record. Notice was taken of the administrative record.

**ISSUES:**

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

Has the claimant requalified for benefits since the separation?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Pierre Burke (claimant) filed the claim for unemployment insurance benefits effective February 19, 2023. Iowa Workforce Development (IWD) mailed a notice of claim to the employer's address of record on February 24, 2023. The employer did receive that notice. The response was due on March 6, 2023. The employer faxed its protest on March 1, 2023. On March 6, 2023 (reference 01), IWD issued a decision that the claimant had requalified for benefits by earning ten times his weekly benefit amount after separating from employment and before filing for benefits. This decision relieved the employer of charges. On March 28, 2023 IWD issued a decision (reference 02) that relieved the employer of charges. A statement of charges was mailed to the employer and the employer on August 9, 2023. The employer appealed the statement of charges on August 22, 2023. An ALJ decision was issued relieving the employer of charges and crediting the employer for the charges issued in the August 9, 2023 statement of charges. See 23A-UI-08169-JT-T. On February 9, 2024, the employer was mailed a statement of charges for the fourth quarter of 2023 charging the employer \$607.26 for benefits paid for

claimant Pierre Burke. The employer faxed an appeal of the statement of charges to IWD on February 23, 2024. The employer received confirmation that its fax was successfully transmitted.

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

For the reasons set forth below, the administrative law finds the employer timely protested the notice of claim and has timely appealed the statement of charges.

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. [Emphasis added.]

Iowa Admin. Code r. 871-26.4 provides, in relevant part:

2. An appeal from an initial decision concerning the allowance or denial of benefits shall be filed, by mail, facsimile, or e-mail, online, or in person, not later than ten calendar days, as determined by the postmark or the date stamp after the decision was mailed to the party at its last-known address and shall state the following:

- a. The name, address and social security number of the claimant;
- b. A reference to the decision from which appeal is taken; and,
- c. The grounds upon which the appeal is based.

3. *Notwithstanding the provisions of subrule 26.4(2), a contributory employer, which has not previously received a notice of the filing of a valid claim for benefits, may appeal an individual's eligibility to receive benefits within 30 days from the mailing date of the quarterly statement of benefit charges.*

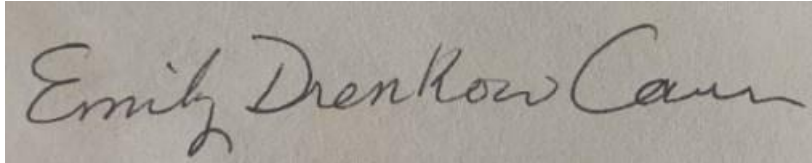
4. Also notwithstanding the provisions of subrule 26.4(2), a reimbursable employer, which has not previously received a notice of the filing of a valid claim

for benefits, may appeal an individual's eligibility to receive benefits within 15 days of the mailing date of the quarterly billing of benefit charges.

The administrative law judge concludes that based on the timely protest submitted by the employer, the previously issued decisions relieving the employer of charges, and the employer's appeal of the statement of charges mailed February 9, 2024 the \$607.26 charged to the employer for benefits paid for the fourth quarter of 2023 are credited to the employer's account and the employer shall be relieved of charges.

**DECISION:**

Based on the employer's timely protest, the decision relieving the employer from charges and the employer's timely challenge of the February 9, 2024 statement of charges, the \$607.26 charged to the employer in the February 9, 2024 statement of charges shall be credited to the employer's account and the charge to the employer's account is reversed.

A handwritten signature in dark ink on a light-colored background. The signature reads "Emily Drenkow Carr" in a cursive, flowing script.

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Emily Drenkow Carr  
Administrative Law Judge

March 25, 2024  
Decision Dated and Mailed

ED/scn

**APPEAL RIGHTS.** If you disagree with the decision, you or any interested party may:

1. Appeal to the Employment Appeal Board within fifteen (15) days of the date under the judge's signature by submitting a written appeal via mail, fax, or online to:

**Employment Appeal Board  
6200 Park Avenue, Suite 100  
Des Moines, Iowa 50321  
Fax: (515)281-7191  
Online: [eab.iowa.gov](http://eab.iowa.gov)**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

**AN APPEAL TO THE BOARD SHALL STATE CLEARLY:**

- 1) The name, address, and social security number of the claimant.
- 2) A reference to the decision from which the appeal is taken.
- 3) That an appeal from such decision is being made and such appeal is signed.
- 4) The grounds upon which such appeal is based.

An Employment Appeal Board decision is final agency action. If a party disagrees with the Employment Appeal Board decision, they may then file a petition for judicial review in district court.

2. If no one files an appeal of the judge's decision with the Employment Appeal Board within fifteen (15) days, the decision becomes final agency action, and you have the option to file a petition for judicial review in District Court within thirty (30) days after the decision becomes final. Additional information on how to file a petition can be found at Iowa Code §17A.19, which is online at <https://www.legis.iowa.gov/docs/code/17A.19.pdf> or by contacting the District Court Clerk of Court <https://www.iowacourts.gov/iowa-courts/court-directory/>.

**Note to Parties:** YOU MAY REPRESENT yourself in the appeal or obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds.

**Note to Claimant:** It is important that you file your weekly claim as directed, while this appeal is pending, to protect your continuing right to benefits.

**SERVICE INFORMATION:**

A true and correct copy of this decision was mailed to each of the parties listed.

**DERECHOS DE APELACIÓN.** Si no está de acuerdo con la decisión, usted o cualquier parte interesada puede:

1. Apelar a la Junta de Apelaciones de Empleo dentro de los quince (15) días de la fecha bajo la firma del juez presentando una apelación por escrito por correo, fax o en línea a:

**Employment Appeal Board  
6200 Park Avenue, Suite 100  
Des Moines, Iowa 50321  
Fax: (515)281-7191  
En línea: [eab.iowa.gov](http://eab.iowa.gov)**

El período de apelación se extenderá hasta el siguiente día hábil si el último día para apelar cae en fin de semana o día feriado legal.

**UNA APELACIÓN A LA JUNTA DEBE ESTABLECER CLARAMENTE:**

- 1) El nombre, dirección y número de seguro social del reclamante.
- 2) Una referencia a la decisión de la que se toma la apelación.
- 3) Que se interponga recurso de apelación contra tal decisión y se firme dicho recurso.
- 4) Los fundamentos en que se funda dicho recurso.

Una decisión de la Junta de Apelaciones de Empleo es una acción final de la agencia. Si una de las partes no está de acuerdo con la decisión de la Junta de Apelación de Empleo, puede presentar una petición de revisión judicial en el tribunal de distrito.

2. Si nadie presenta una apelación de la decisión del juez ante la Junta de Apelaciones Laborales dentro de los quince (15) días, la decisión se convierte en acción final de la agencia y usted tiene la opción de presentar una petición de revisión judicial en el Tribunal de Distrito dentro de los treinta (30) días después de que la decisión adquiera firmeza. Puede encontrar información adicional sobre cómo presentar una petición en el Código de Iowa §17A.19, que se encuentra en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf> o comunicándose con el Tribunal de Distrito Secretario del tribunal <https://www.iowacourts.gov/iowa-courts/court-directory/>.

**Nota para las partes:** USTED PUEDE REPRESENTARSE en la apelación u obtener un abogado u otra parte interesada para que lo haga, siempre que no haya gastos para Workforce Development. Si desea ser representado por un abogado, puede obtener los servicios de un abogado privado o uno cuyos servicios se paguen con fondos públicos.

**Nota para el reclamante:** es importante que presente su reclamo semanal según las instrucciones, mientras esta apelación está pendiente, para proteger su derecho continuo a los beneficios.

**SERVICIO DE INFORMACIÓN:**

Se envió por correo una copia fiel y correcta de esta decisión a cada una de las partes enumeradas.