

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

OLIVIER SANCHEZ
Claimant

**ANNA ENTERPRISES
STAFFING SOLUTIONS**
Employer

APPEAL 17R-UI-06815-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 02/21/16
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 May 23, 2017, (reference 02) unemployment insurance decision and the Statement of Charges dated May 9, 2017 for the first quarter of 2017. A hearing was scheduled to be held on July 21, 2017. The employer responded to the hearing notice instructions but no hearing was held as there was sufficient evidence in the appeal letter and accompanying documents and agency records to resolve the matter without testimony.

ISSUE:

Did the employer file a timely appeal to the notice of protest and is the employer's appeal from the statement of charges timely?

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 February 23, 2016. The employer did not receive that notice. The first notice of the claimant's claim for benefits was the receipt of the Statement of Charges mailed to them on May 9, 2017 that contained correct instructions to appeal by filing an appeal with the Appeals Bureau of Iowa Workforce Development. Prior statement of charges sent to the employer did not provide appeal instructions to contact the Appeals Bureau for an appeal. Instead employers were told to contact the chargeback unit. Appeals submitted to the chargeback unit were not sent to the Appeals Bureau. The employer had no opportunity to appeal to the appeals unit the statement of charges mailed to them on May 9, 2016 and February 9, 2017.

The claimant voluntarily quit employment with this employer in August 2015 to go to work for another employer. He worked for the new employer and earned well over ten times his weekly benefit amount prior to filing his claim for benefits with an effective date of February 21, 2016. This employer filed a timely notice of appeal of the statement of charges of May 9, 2017 that provided them with correct appeal instructions. 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 not receive the notice of claim indicating the claimant had filed a claim for benefits. Additionally the statement of charges mailed to the employer before May 9, 2017 contained incorrect appeal rights. The chargeback unit did not forward appeals filed by employers to the Appeals Bureau. The employer's appeal of the statement of charges dated May 9, 2017 was 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 May 23, 2017, (reference 02) unemployment insurance decision and the first and fourth quarter 2016, and first quarter 2017 Statement of Charges 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 not received and they were not given correct appeal instructions on the other statement of charges. 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.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/rvs