

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JEFFREY J MILLER
Claimant

7 HILLS BREWING CO LLC
Employer

APPEAL 20A-UI-01553-JC-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/03/19
Claimant: Respondent (1)

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:

On February 18, 2020, the employer filed an appeal from the February 7, 2020 statement of charges for the fourth quarter of 2019. After proper notice, a telephone hearing was held on March 9, 2020. The hearing was held jointly with Appeal 20A-UI-01552-JC-T. The claimant participated personally. The employer participated through Abigail Gutierrez, owner.

Official notice was taken of the administrative record. Department Exhibits D-1 through D-4 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:

Is the employer's protest timely?
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: Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant worked for employer from August 7, 2017 - April 24, 2018. Claimant filed a claim for unemployment insurance benefits with an effective date of March 3, 2019.

On March 6, 2019, Iowa Workforce Development ("IWD") mailed a notice of claim to the employer. 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 D-1). The employer timely responded to the notice of claim on March 11, 2019, but did not provide correct information about separation, but rather marked the claimant had failed to accept a suitable offer of work (Department Exhibit D-1).

On March 15, 2019, IWD mailed the employer an initial decision which allowed benefits to the

claimant (Department Exhibit D-2). The initial decision contained a warning that the decision was final unless an appeal was filed by March 25, 2019. Employer did receive the initial decision but did not file an appeal within the prescribed period. Good cause was not established for the delay in filing an appeal. See 20A-UI-01552-JC-T.

On February 7, 2020, IWD mailed employer a statement of charges for the fourth quarter of 2019. On February 18, 2020, employer filed an appeal.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the employer did not file a timely appeal from the Statement of Charges dated February 7, 2020.

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 did not file its appeal of the Statement of Charges dated February 7, 2020 within the time period prescribed by the Iowa Employment Security Law because it did receive the notice of claim and subsequent initial decision allowing the claimant benefits, but did not file a timely appeal to the initial decision. See 20A-UI-01552-JC-T. Therefore, the period to appeal potential charges expired on March 25, 2019.

Based upon the evidence presented, the administrative law judge concludes 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 charges is untimely. The February 7, 2020 Statement of Charges for the fourth quarter of 2019 is affirmed and remains in effect.

DECISION:

The February 7, 2020 Statement of Charges for the fourth quarter of 2019 is affirmed and remains in effect.

Jennifer L. Beckman
Administrative Law Judge
Unemployment Insurance Appeals Bureau
Iowa Workforce Development
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax 515-478-3528

Decision Dated and Mailed

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