

**IOWA DEPARTMENT OF INSPECTIONS AND APPEALS
ADMINISTRATIVE HEARINGS DIVISION, UI APPEALS BUREAU**

ALLISON M STOLLFUSS
Claimant

APPEAL 23A-UI-05177-ED-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

SCHIEFFER CO INTERNATIONAL LC
Employer

**OC: 01/01/23
Claimant: Respondent (1R)**

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 Statement of Charges mailed on May 9, 2023, for the first quarter of 2023. A hearing was scheduled and held on June 7, 2023, pursuant to due notice. The claimant did not participate. The employer did participate through witnesses Liz Kass and Jim Robinson. The administrative law judge took administrative notice of the claimant's unemployment insurance benefits records. The Employer's Exhibits 1 – 8 were offered and admitted.

ISSUES:

Was the employer's protest or appeal from the statement of charges timely?
Is the Statement of Charges correct?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds:

On January 31, 2023, the employer/appellant filed an appeal from the January 23, 2023 (reference 02) unemployment decision that allowed benefits. A hearing was held on February 15, 2023, for appeal 23A-UI00978-AR-T. Claimant did not participate in the hearing. Employer participated in the hearing. After the Administrative Law Judge issued a decision, the claimant appealed to the Employment Appeal Board (EAB). On March 30, 2023, the EAB remanded this matter for a new hearing due to the claimant's non-participation in the February 15, 2023 hearing.

After the EAB remanded, due notice was issued, a hearing was scheduled to be held on April 14, 2023. The claimant did not call in at the scheduled time to participate in the hearing. The employer was present. Because the EAB did not vacate the original appeal decision for 23A-UI-00978-AR-T, that hearing record, including any exhibits, is adopted and incorporated in hearing number 23R-UI-03404-CS-T. The claimant was discharged from employment due to job-related misconduct. Benefits are withheld until such time that she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. The claimant was overpaid unemployment insurance benefits in the amount of \$3,306.00 and is obligated to repay the agency those benefits. The employer did participate in the fact-finding interview and its account shall not be charged. See 23R-UI-03404-CS-T.

The employer received a statement of charges mailed on May 9, 2023 indicating the employer was being charged \$5,510.00 for a January 1, 2023 claim date for A.M. Stollfuss. The employer appealed the statement of charges on May 18, 2023.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes as follows:

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.*

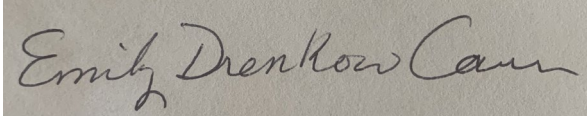
a. (6) Within forty days after the close of each calendar quarter, the department shall notify each employer of the amount of benefits charged to the employer's account during that quarter. The notification shall show the name of each individual to whom benefits were paid, the individual's social security 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. A determination has been made previously regarding the claimant's separation from employment. See 23R-UI-03404-CS-T. The claimant was denied benefits due to a separation from employment for disqualifying misconduct and the employer was found not responsible for any charges relating to claimant's claim for benefits. The employer's appeal of the Statement of Charges is timely. The issue regarding the reason for the separation is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination. The Tax Bureau shall issue a credit, if the credit has not already been issued, to the employer reflecting the amount charged in the statement of charges mailed May 9, 2023 for the claimant, Allison M. Stollfuss.

DECISION:

The May 9, 2023, Statement of Charges for the first quarter of 2023 is affirmed pending the outcome of the remanded issue. The employer has filed a timely appeal from that Statement of Charges.

REMAND: The issue of a credit to the employer for charges issued on the statement of charges mailed May 9, 2023 for claimant, Allison Stohlfuss, (provided that credit has not already been issued) is remanded to the Tax Bureau.

A rectangular box containing a handwritten signature in cursive script that reads "Emily Drenkow Carr".

Emily Drenkow Carr
Administrative Law Judge

June 12, 2023
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
4th Floor – Lucas Building
Des Moines, Iowa 50319
Fax: (515)281-7191
Online: 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
4th Floor – Lucas Building
Des Moines, Iowa 50319
Fax: (515)281-7191
En línea: 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.