

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ERICK F HOOD
Claimant

CARTER'S LEASING INC
Employer

APPEAL 19A-UI-03018-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 11/25/18
Claimant: Respondent (4)**

Iowa Code § 96.6(2) – Timeliness of Protest
Iowa Code § 96.7(2)a(6) – Appeal from the Statement of Charges
Iowa Code Chapter 95 – Requalification

STATEMENT OF THE CASE:

The employer filed an appeal from the fourth quarter 2018, statement of charges that notified them that their account was being charged for benefits paid to Erick F. Hood. The parties were properly notified about the hearing. A telephone hearing was held on April 30, 2019. Claimant did not participate. Employer participated through Sarah Luke, Office Manager. Employer's Exhibit 1 was admitted into the record. Official notice was taken of Iowa Workforce Development Department (IWD) records, including claimant's earnings records.

ISSUES:

Did the employer file a timely protest to the notice of claim?
Did the employer file a timely appeal to the statement of charges?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The employer had difficulty receiving their mail in a consistent timely manner so they obtained a post office box prior to November 2018. Also prior to November 2018 the employer notified IWD that their mailing address had changed from 113 Reynolds Place to PO Box 86. The address was not changed for IWD mailings and IWD continued to mail documents to the Reynolds Place address.

On November 28, 2018 a notice of claim for claimant was mailed to the employer at their 113 Reynolds Place address. The employer never received the notice of claim for this claimant. The first notice the employer had that their account was subject to charges for benefits paid to claimant was when they received the statement of charges for the fourth quarter of 2018 mailed to the Reynolds Place address on February 8, 2019. The employer did not receive the statement of charges until March 15, 2019 well after the time to file an appeal had passed. As the claimant was no longer an employee, it took the employer some time to gather information

about the claimant's separation from employment. The employer filed their appeal to the statement of charges on April 9, 2019, within thirty days of their actual receipt of the statement.

The claimant filed a claim for benefits with an effective date of November 25, 2018. The claimant has requalified for benefits since the separation from the employer in May 2018.

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 was allowed to file an appeal to the statement of charges as they never received notification of the notice of claim. The question then becomes did the employer file its appeal of the Statement of Charges within the time period prescribed by the Iowa Employment Security Law. The employer did not receive the statement of charges in time to meet the stated deadline. The administrative law judge concludes that failure to file a timely appeal within the time prescribed by the Iowa Employment Security Law was due to IWD error in not correcting the mailing address and due to delay or other inaction of the United States Postal Service pursuant to 871 IAC 24.35(2). Thus, the employer's appeal of the statement of charges within thirty days of the actual receipt is deemed 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 February 8, 2019 Statement of Charges for the fourth quarter of 2018 is 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. The claimant has requalified for benefits since the separation. Benefits are allowed, provided the claimant is otherwise eligible. The account of the employer (231843000) shall not be charged.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/rvs