

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

BOBBY L GROLEAU
Claimant

PORTER MOVING COMPANY LLC
Employer

APPEAL 18A-UI-07596-SC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 12/03/17
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:

Porter Moving Company, LLC (employer) filed an appeal from the Statement of Charges dated July 16, 2018, for the first quarter of 2018. A hearing was held on August 3, 2018, pursuant to due notice. Bobby L. Groleau (claimant) did not respond to the hearing notice and did not participate. The employer participated through Operations Manager John Davis. The Department's Exhibits D1 through D3 were admitted into the record.

ISSUES:

Was the employer's protest timely?

Was 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 claimant filed his claim effective December 3, 2017. The notice of claim was mailed to the employer's address of record on December 6, 2017. The employer received the notice. However, as it was in the process of moving offices during a busy season, the notice of claim was filed in Operations Manager John Davis' filing cabinet and the employer did not protest the claim.

On July 6, 2018, a Statement of Charges was mailed to the employer for the first quarter of 2018. Davis received the Statement of Charges and began looking for the notice of claim. He then found the notice of claim in his filing cabinet. The employer filed its appeal to the Statement of Charges challenging the claimant's receipt of benefits on July 16, 2018.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the employer's appeal to the Statement of Charges challenging the receipt of the claimant's unemployment insurance benefits is not timely and the Statement of Charges is affirmed.

Iowa Code section 96.6(2) provides, in pertinent part:

Filing – determination – appeal.

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:

Employer contribution and reimbursements.

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.]

The employer's appeal of the Statement of Charges challenging the claimant's receipt of benefits is not timely. An employer has the ability to appeal the Statement of Charges and challenge the benefits received by the claimant only if it did not receive prior notice of the claimant's receipt of benefits. Iowa Code § 96.7(2)a(6). In this case, the employer had prior notice that the claimant had filed a claim for benefits and failed to file a protest to that claim within ten days of receipt. There is a presumption that documents mailed are received in a timely manner. The employer has not provided evidence to refuting that presumption. The Statement of Charges is affirmed.

DECISION:

The July 16, 2018, Statement of Charges for the first quarter of 2018 is affirmed. The employer's appeal to the Statement of Charges challenging the claimant's receipt of benefits is not timely as the employer had prior notice that the claimant had filed a claim for benefits which it did not protest in a timely fashion.

Stephanie R. Callahan
Administrative Law Judge

Decision Dated and Mailed

src/scn