

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

**MICHELLE S JOSLIN**  
Claimant

**ARMORED GARDENS LLC**  
Employer

**APPEAL 23A-UI-01924-LJ-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 06/12/22**  
**Claimant: Respondent (4R)**

Iowa Code Chapter 96 – 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:**

On February 24, 2023, Armored Gardens LLC (employer) filed an appeal from the statement of charges dated February 9, 2023, reference 06, for the fourth quarter of 2022. A hearing was scheduled for and held at 10:00 a.m. on Monday, March 13, 2023, pursuant to due notice. Michelle S. Joslin (claimant) did not participate. The employer did participate through Daniel Bush, Owner. The department's Exhibits D1, D2, and D3 were received and admitted.

**ISSUES:**

Did the employer file a timely appeal from the statement of charges?  
Has the claimant requalified for benefits since the separation?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Michelle S. Joslin (claimant) filed the claim for unemployment insurance benefits effective June 12, 2022, and the weekly benefit amount is \$399.00. Claimant had two periods of employment with Armored Gardens LLC. Initially, claimant was hired on August 20, 2020 and she separated from the employer in the first quarter of 2021, on January 18, 2021. The administrative record shows that after that separation, but before filing the claim for benefits, she earned more than \$3,990.00, or ten times the weekly benefit amount, in insured wages with another employer.

Claimant's second period of employment with Armored Gardens LLC began on June 15, 2022, just after she opened her claim for unemployment insurance benefits. Claimant worked part-time hours as a kitchen employee from her hire date until December 16, 2022. The administrative record shows that claimant filed weekly continued claims for benefits throughout her employment, and she did not report wages during any week that she filed for benefits.

Iowa Workforce Development (IWD) mailed a notice of claim to the employer's address of record on June 15, 2022. The employer did not receive that notice. Bush receives the mail for all of his numerous businesses at his home, and then he takes it into work to sort and handle.

The first notice of the claimant's claim for benefits was the receipt of the statement of charges mailed February 9, 2023 for the fourth quarter of 2022. The employer filed its appeal of that statement of charges on February 24, 2023.

### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the employer filed a timely appeal from the statement of charges and the claimant has requalified for benefits. Benefits are allowed and the employer's account shall not be charged.

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.

Iowa Admin. Code r. 871-26.4 provides, in relevant part:

2. An appeal from an initial decision concerning the allowance or denial of benefits shall be filed, by mail, facsimile, or e-mail, online, or in person, not later than ten calendar days, as determined by the postmark or the date stamp after the decision was mailed to the party at its last-known address and shall state the following:

- a. The name, address and social security number of the claimant;
- b. A reference to the decision from which appeal is taken; and,
- c. The grounds upon which the appeal is based.

3. Notwithstanding the provisions of subrule 26.4(2), a contributory employer, which has not previously received a notice of the filing of a valid claim for benefits, may appeal an individual's eligibility to receive benefits within 30 days from the mailing date of the quarterly statement of benefit charges.

4. Also notwithstanding the provisions of subrule 26.4(2), a reimbursable employer, which has not previously received a notice of the filing of a valid claim

for benefits, may appeal an individual's eligibility to receive benefits within 15 days of the mailing date of the quarterly billing of benefit charges.

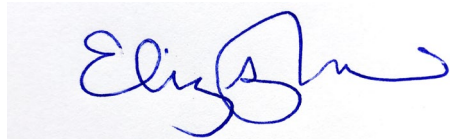
The employer filed its appeal of the statement of charges within the time period prescribed by the Iowa Employment Security Law because it did not receive the notice of claim giving it an opportunity to protest the claimant's receipt of benefits chargeable to its account. The employer filed the appeal to the statement of charges within thirty days making the appeal timely. The claimant has requalified for benefits since the separation from this employer by earning ten times the weekly benefit amount in insured wages following the separation. See Iowa Code §§ 96.5(1)g and 96.5(2)a. Accordingly, benefits are allowed and the account of the employer shall not be charged.

**DECISION:**

The February 9, 2023, reference 06, statement of charges for the fourth quarter of 2022 is modified in favor of the appellant, which will appear as a credit to the employer's account on a future statement of charges. 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 shall not be charged and a credit shall be issued on a future statement of charges.

**REMAND:**

This matter is remanded to the Investigations and Recovery Unit of Iowa Workforce Development for an investigation into claimant's failure to properly report wages earned while filing weekly continued claims for benefits between June 12, 2022 and December 17, 2022.



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Elizabeth A. Johnson  
Administrative Law Judge

March 14, 2023  
Decision Dated and Mailed

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**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  
4<sup>th</sup> Floor – Lucas Building  
Des Moines, Iowa 50319  
Fax: (515)281-7191  
Online: [eab.iowa.gov](http://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](http://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 adquiriera 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.