

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**KENNETH DAVIS**  
Claimant

**COMMUNICATIONS TECHNOLOGIES**  
Employer

**APPEAL 17A-UI-05887-CL-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 02/07/16**  
**Claimant: Respondent (4)**

Iowa Code Chapter 95 – 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:**

The employer filed an appeal from the Statement of Charges dated May 9, 2017, for the first quarter of 2017. A hearing was held on June 22, 2017, pursuant to due notice. Claimant participated. Employer participated through president Dana Heldenbrand. Employer's Exhibit 1 was received. On June 26, 2017, the record was reopened for additional testimony. The employer participated through Christine Boelman. The claimant chose not to participate.

**ISSUE:**

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: Claimant began working for this employer on April 3, 2015. The claimant filed a claim for benefits effective February 7, 2016, due to a short-term layoff. A notice of claim was sent to employer on February 12, 2016. The employer did not protest this claim.

Claimant was permanently separated from this employer on March 23, 2016, and has not worked for employer since March 23, 2016. Claimant did not file any continued weekly claims immediately after his separation with employer. Neither claimant nor employer reported his separation from employment to the agency and no new notice of claim was sent to employer after the separation.

Claimant next worked for three different employers. Claimant reopened his claim on August 21, 2016. No new notice of claim was sent to employer. A Statement of Charges dated November 9, 2016, for the third quarter of 2016 was sent to employer. The document included charges for claimant. However, the employer did not receive the Statement of Charges dated November 9, 2016, so it did not file an appeal.

Claimant then worked for two other employers, but became unemployed again and reopened the claim on January 1, 2017. Claimant was paid \$1,168.00 in benefits during the four weeks ending February 4, 2017. The benefits were charged to this employer.

Employer's first notice that claimant had reopened his claim after his permanent separation from employment was the receipt of Statement of Charges mailed May 9, 2017 for the first quarter of 2017. The employer filed its appeal of that Statement of Charges on June 6, 2017.

The claimant has requalified for benefits since the separation from the employer.

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

Iowa Code § 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 § 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 because it did not receive a notice of claim or previous statement of charges indicating the claimant had reopened his claim for benefits. The employer's appeal of that Statement within thirty days is 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 Statement of Charges dated May 9, 2017 is modified in favor of the appellant. The employer has filed a timely appeal from that Statement of Charges. 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.

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Christine A. Louis  
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Decision Dated and Mailed

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