

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**TAMMY S BRUMBERG**  
Claimant

**NORTH CEDAR TRUCKING LLC**  
Employer

**APPEAL 21A-UI-01585-CL-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 06/14/20**  
**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:**

On November 13, 2020, the employer filed an appeal from the November 9, 2020, statement of charges that included charges for claimant's unemployment insurance benefits in the third quarter of 2020. The parties were properly notified about the hearing. A telephone hearing was held on March 1, 2021. Claimant participated. Employer participated through co-owner Diane Poduska and was represented by attorney Rachel Neff.

**ISSUES:**

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

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Employer previously hired a third-party representative, Employ America Group, to act as its agent for matters related to unemployment insurance benefits. Employer did not file a power of attorney document with Iowa Workforce Development, but had its correspondence mailed directly to Employ America Group. Employer ended that relationship on June 1, 2020.

Claimant filed a claim for unemployment insurance benefit with an effective date of June 14, 2020. On June 18, 2020, Iowa Workforce Development mailed a notice of claim to Employ America Group. Employ America Group did not forward the notice of claim to employer and employer was unaware the claim had been filed.

On July 28, 2020, employer contacted Iowa Workforce Development to have its address of record updated.

On November 9, 2020, Iowa Workforce Development mailed employer a statement of charges for the third quarter of 2020. The statement included charges for claimant's unemployment insurance benefits. On November 13, 2020, employer filed an appeal.

Employer is protesting on the basis that claimant was unavailable for work/voluntarily resigned effective July 14, 2020.

**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.

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 because it did not receive the notice of claim indicating the claimant had filed a claim for benefits. The employer's appeal of that Statement within thirty days is timely. The issue of whether claimant is disqualified from receiving unemployment insurance benefits based on her separation from employment will be remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination.

**DECISION:**

The November 9, 2020, Statement of Charges for the third quarter of 2020 is affirmed pending a determination on whether claimant is qualified to receive benefits. The employer has filed a timely appeal from that Statement of Charges, as the Notice of Claim was not received.

**REMAND:**

The issue of whether claimant is disqualified from receiving unemployment insurance benefits based on her separation from employment is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination.



---

Christine A. Louis  
Administrative Law Judge  
Unemployment Insurance Appeals Bureau  
1000 East Grand Avenue  
Des Moines, Iowa 50319-0209  
Fax (515)478-3528

March 8, 2021  
Decision Dated and Mailed

cal/scn