

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

RANDY A CORNELISON
Claimant

APPEAL 17A-UI-08396-CL-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

ALLEMAN CAR CORNER LLC
Employer

**OC: 01/01/17
Claimant: Respondent (4)**

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:

The employer filed an appeal from the Statement of Charges dated August 9, 2017 for the second quarter of 2017. A hearing was held on September 7, 2017, pursuant to due notice. Claimant participated. Employer participated through office manager Sue Stevens.

ISSUE:

The issue is whether employer's protest and appeal from the statement of charges is timely.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The notice of claim was mailed to the employer's accountant's address of record on January 6, 2017. The employer did not receive that notice. The first notice of the claimant's claim for benefits was the receipt of the Statement of Charges mailed May 9, 2017 for the first quarter of 2017. The employer filed an appeal with the agency's charge back unit. On July 7, 2017, agency employee Veronica Young sent employer an email stating she ran a decision relieving the employer of charges and that the employer would be credited on its third quarter statement of charges. A July 10, 2017, (reference 01) decision was issued finding claimant had requalified for benefits since his separation from employment in 2016 and relieving the employer from charges for benefits paid. On August 9, 2017, the Statement of Charges for the second quarter of 2017 was mailed. Charges for claimant's benefits appeared on the Statement of Charges. Employer filed a timely appeal on August 16, 2017. The claimant has requalified for benefits since the separation from the employer in 2016.

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 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. Additionally, employer filed an appeal from the Statement of Charges for the first quarter of 2017 that the agency considered timely. In response, the agency issued a decision finding claimant had requalified for benefits since separating from employer in 2016 and relieving employer of charges. The administrative law judge likewise concludes that the claimant has requalified for benefits since the separation from this employer in the third quarter of 2016. Accordingly, benefits are allowed and the account of the employer shall not be charged.

DECISION:

The August 9, 2017, Statement of Charges for the second quarter of 2017 are 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 shall not be charged.

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Decision Dated and Mailed
cal/scn