

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**ROBIN C OLIGMUELLER**  
Claimant

**APPEAL 20A-UI-16140-SC-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**ULTRALAWN COMPANY**  
Employer

**OC: 12/15/19  
Claimant: Respondent (1R)**

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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 16, 2020, Ultralawn Company (employer) filed an appeal from the statement of charges dated November 9, 2020, reference 02, for the third quarter of 2020. A hearing was held on February 1, 2020, pursuant to due notice. Robin C. Oligmueller (claimant) responded to the hearing notice and answered when called at the number provided. He requested a public defender and to postpone the hearing. Both requests were denied because public defenders are not available for administrative proceedings and he did not request to postpone the hearing three days in advance as required. The claimant elected to observe the hearing, but declined to participate. The employer participated through Matt Kruse, Owner. The administrative law judge took official notice of the administrative 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 began working for the employer on January 6, 2019, as a seasonal laborer. He filed his claim for unemployment insurance benefits effective December 15, due to a reduction in hours. The notice of claim was emailed to the employer on December 20. The employer did not protest at that time because the claimant was still employed with them.

The claimant separated from employment on March 27, 2020. The employer notified Iowa Workforce Development (IWD) of the separation within a week through the agency website. The first notice the employer had that its account was being charged for the claimant's benefits was the statement of charges dated November 9. The employer appealed that statement of charges on November 16. Whether the claimant's separation qualifies him for benefits has not yet been investigated or adjudicated by the Benefits Bureau.

The claimant filed weekly claims each week from December 29, 2019 through July 4, 2020. The claimant reported \$595.00 in wages earned in the first quarter of 2020, or January 1 through March 31. He did not report any wages earned in the second quarter, or April 1 through June 30. The claimant's wage history shows that he was paid \$1,099.00 in wages from the employer in the first quarter and \$430.00 in wages in the second quarter. He also earned \$3,894.00 in wages during the second quarter from Bee Line Products Corp. (account 093291). Whether the claimant has been overpaid state and federal unemployment benefits, and whether he is subject to penalty for misrepresentation have not yet been investigated or adjudicated by the Integrity Bureau.

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

For the reasons that follow, the administrative law judge concludes the employer did file a timely appeal to the statement of charges.

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.

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 was the first notice it had that its account was being charged for benefits after filing notice of separation. The employer's appeal of that statement within thirty days is timely. The issue of whether the claimant's separation qualifies him for benefits is remanded to the Benefits Bureau for a fact-finding interview and unemployment insurance decision.

Whether the claimant underreported wages earned and should be subject to a penalty for misrepresentation while claiming unemployment insurance benefits is remanded to the Integrity Bureau for investigation and determination.

**DECISION:**

The November 9, 2020, reference 02, statement of charges for the third quarter of 2020 is affirmed, pending the outcome of the remanded issues.

**REMANDS:**

The issue of whether the claimant's separation qualifies him for benefits is remanded to the Benefits Bureau for a fact-finding interview and unemployment insurance decision.

The issues of whether the claimant underreported wages earned and should be subject to a penalty for misrepresentation while claiming unemployment insurance benefits are remanded to the Integrity Bureau for investigation and determination.



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Stephanie R. Callahan  
Administrative Law Judge

February 17, 2021  
Decision Dated and Mailed

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