

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

KYAH E MINER
Claimant

CIBO INC
Employer

APPEAL 18A-UI-11700-SC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 07/15/18
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:

Cibo, Inc. (employer) filed an appeal from the statement of charges dated November 9, 2018, for the third quarter of 2018. A hearing was held on December 20, 2018, pursuant to due notice. Kyah E. Miner (claimant) did not respond to the hearing notice and did not participate. The employer participated through Executive Chef Nathan W. Derrick. The Employer's Exhibit 1 and the Department's Exhibits D1 and D2 were admitted into the 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 notice of claim was mailed to the employer's address of record on July 20, 2018. The employer received the notice and faxed back a protest within the allotted ten days. The employer did not hear anything else from the agency about the claimant's claim for benefits or its protest.

On November 9, the statement of charges for the third quarter of 2018 was mailed to the employer and showed charges to its account based on the claimant's claim. This was the first notice the employer had after its protest that the claimant was receiving benefits chargeable to its account. On December 4, the employer appealed the statement of charges. There are issues of the reason for the separation and requalification that have not yet been investigated or adjudicated by the Benefits Bureau of Iowa Workforce Development (IWD).

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the employer filed a timely protest to the claimant's receipt of benefits and filed 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.

The employer filed a protest in a timely manner within ten days of July 20, 2018, but the agency did not receive the fax transmission. The first notice the employer had that the protest was not received was the statement of charges for the third quarter of 2018. The employer appealed that statement of charges within thirty days. Therefore, the employer's protest to the claimant's receipt of benefits and appeal from the statement of charges is timely.

The issues of whether the claimant's separation from employment disqualifies her from receiving benefits or whether she has requalified for benefits are remanded to the Benefits Bureau of IWD for an initial investigation and determination.

DECISION:

The November 9, 2018 statement of charges for the third quarter of 2018 is affirmed pending a determination on whether claimant is eligible for benefits and whether employer should be charged for those benefits.

REMAND:

The issues of whether the claimant's separation from employment disqualifies her from receiving benefits or whether she has requalified for benefits are remanded to the Benefits Bureau of IWD for an initial investigation and determination.

Stephanie R. Callahan
Administrative Law Judge

Decision Dated and Mailed

src/scn