

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**LACEY LUNDBERG**

Claimant

**J & S DENTAL ENTERPRISES PLC**

Employer

**APPEAL 22A-UI-11725-LJ-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 11/14/21**

**Claimant: Respondent (1-R)**

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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 February 14, 2022, J & S Dental Enterprises, P.L.C., (employer) filed an appeal from the statement of charges dated February 9, 2022, reference 02, for the fourth quarter of 2021. A hearing was held at 9:00 a.m. on Tuesday, June 21, 2022, pursuant to due notice. Lacey Lundberg (claimant) did not participate. The employer did participate through Stacy Olberding, HR Director. The department's Exhibits D-1 through D-5 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 claimant separated from employment on November 5, 2021, when she quit for other employment and subsequently filed a claim for benefits effective November 14, 2021. The notice of claim was mailed to the employer's address of record on November 23, 2021. (Exhibit D-1) 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 February 9, 2022, for the fourth quarter of 2021. (Exhibit D-2)

The employer filed its appeal of the fourth quarter of 2021 statement of charges on February 14, 2022. (Exhibit D-3) The employer included two emails from claimant in its appeal showing claimant quit her position with the employer for other employment. Due to a combination of issues, the Appeals Bureau did not promptly docket that appeal. Next, the employer received the statement of charges mailed May 9, 2022, for the first quarter of 2022. (Exhibit D-4) The employer filed its appeal from that statement of charges by immediately calling the agency to inquire and then re-forwarding its February appeal. (Exhibit D-5)

The issue of whether the claimant quit for other employment and the employer can be relieved of charges has not yet been investigated or adjudicated by the Benefits 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 did not receive the notice of claim indicating the claimant had filed a claim for benefits. When the employer received notice in February 2022 through the statement of charges that claimant had filed a claim for benefits, it promptly filed an appeal. The employer's appeal of that statement within thirty days is timely.

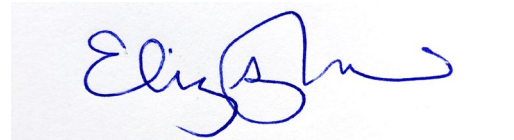
The issue of whether the claimant's separation was a quit for other employment, allowing the claimant to receive benefits and allowing the employer to be relieved of charges, is remanded to the Benefits Bureau for a fact-finding interview and unemployment insurance decision.

**DECISION:**

The February 9, 2022, reference 02, statement of charges for the fourth quarter of 2021 is affirmed, pending the outcome of the remanded issue. 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 the claimant's separation was a proper quit for other employment is remanded to the Benefits Bureau for a fact-finding interview and unemployment insurance decision.



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Elizabeth A. Johnson  
Administrative Law Judge  
Unemployment Insurance Appeals Bureau

June 28, 2022  
Decision Dated and Mailed

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