

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ROBIN L ASHLINE
Claimant

L A LEASING INC
Employer

APPEAL 18A-UI-03386-SC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 04/23/17
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:

L A Leasing, Inc. (employer) filed an appeal from the Statement of Charges dated February 9, 2018, for the fourth quarter of 2017. A hearing was held on April 9, 2018, pursuant to due notice. Robin L. Ashline (claimant) participated. The employer participated through UI Benefits Administrator Colleen McGuinty. The Department's Exhibit D1 was admitted without objection.

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 filed a claim for benefits effective April 24, 2016. The employer received a notice of claim dated January 19, 2017, which it protested stating the claimant voluntarily quit on January 13, 2017. On February 15, 2017, an unemployment insurance decision was issued allowing benefits based on the January separation. The employer appealed that decision. The administrative law judge affirmed the unemployment insurance decision in appeal 17A-UI-02184-JTT on April 3, 2017. The employer did not appeal the decision within 15 days and it has become final agency action.

The claimant worked for the employer for two additional days after January 13, 2017. She was assigned to Nordstrom Distribution Center as a General Laborer from February 13 through 15, 2017. The employer did not notify Iowa Workforce Development (IWD) of the second separation.

On April 23, 2017, the claimant filed a new claim for a second benefit year. Her weekly benefit amount is \$172.00. The employer did not receive a notice of claim for the second claim year. The first notice the employer had of the claimant's claim for benefits was the Statement of Charges dated February 9, 2018. The employer filed the appeal to the Statement of Charges

on March 7, 2018. Whether the claimant's February separation qualifies her for benefits 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 filed a timely appeal to 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 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 effective April 23, 2017. The employer's appeal of that Statement within thirty days is timely. Whether the claimant's January separation was previously adjudicated in a prior claim year and whether the claimant's February separation qualifies her for unemployment insurance benefits are remanded to the Benefits Bureau of IWD for an initial investigation and determination.

DECISION:

The February 9, 2018, Statement of Charges for the fourth quarter of 2017 is affirmed pending the outcome of the remanded issues. The employer has filed a timely appeal from that Statement of Charges, as the notice of claim was not received.

REMAND:

Whether the claimant's January separation was previously adjudicated in a prior claim year and whether the claimant's February separation qualifies her for unemployment insurance 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