

**IOWA DEPARTMENT OF INSPECTIONS AND APPEALS  
ADMINISTRATIVE HEARINGS DIVISION, UI APPEALS BUREAU**

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**KESHA ANDERSON**  
Claimant

**SEDONA STAFFING INC**  
Employer

**APPEAL 22A-UI-17334-CS-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 05/30/21  
Claimant: Respondent (4)**

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 August 9, 2022, Sedona Staffing Inc. (employer) filed an appeal from the statement of charges dated August 9, 2022, reference 07, for the second quarter of 2022. A hearing was held on October 25, 2022, pursuant to due notice. Kesha Anderson (claimant) did not participate. The employer participated through Unemployment Benefits Administrator, Colleen McGuinty. The department's Exhibits D1 through D4 were admitted into the record. Administrative notice was taken of claimant's unemployment insurance benefits records.

**ISSUES:**

- I. Was the employer's protest timely?
- II. Was the employer's appeal from the statement of charges timely?

**FINDINGS OF FACT:**

The claimant separated from employment on November 19, 2020. The claimant filed for benefits with an effective date of May 30, 2021. A notice of claim was mailed to employer on June 7, 2021. (Exhibit D-1). The employer timely filed its statement of protest on June 10, 2021. A decision dated August 5, 2021 (reference 02) found that the claimant was not eligible for benefits and the employer's account will not be charged. (Exhibitd-2). The claimant did not appeal this adverse decision and it became final agency action. On August 9, 2022, a statement of charges was mailed to employer for the second quarter of 2022 charging employer for claimant's benefits. (Exhibit D-3). Employer appealed the statement of charges on August 17, 2022. (Exhibit D-4).

**REASONING AND CONCLUSIONS OF LAW:**

The administrative law judge concludes that the employer has filed a timely appeal from the second quarter of 2022 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 § 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 second quarter of 2022 Statement of Charges within the time period prescribed by Iowa Code § 96.7(2)a(6) because the Statement of Charges was the first time that the employer was notified that it would be charged for benefits paid to claimant. The agency's previous decision dated August 5, 2022 (reference 02) found that the employer would not be charged for benefits. The employer's appeal of the second quarter of 2022 Statement of Charges within thirty days is timely. The Statement of Charges is inconsistent with the agency's previous decision.

**DECISION:**

The Statement of Charges dated August 9, 2022 for the second quarter of 2022 is modified in favor of the appellant/employer. The employer has filed a timely appeal from that Statement of Charges. The agency has previously determined claimant is not eligible for benefits and the account of the employer shall not be charged. As a result, the employer's account shall be credited with the amount charged in the second quarter of 2022.



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Carly Smith  
Administrative Law Judge

October 27, 2022  
Decision Dated and Mailed

**APPEAL RIGHTS.** If you disagree with the decision, you or any interested party may:

1. Appeal to the Employment Appeal Board within fifteen (15) days of the date under the judge's signature by submitting a written appeal via mail, fax, or online to:

**Employment Appeal Board  
4<sup>th</sup> Floor – Lucas Building  
Des Moines, Iowa 50319  
Fax: (515)281-7191  
Online: eab.iowa.gov**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

AN APPEAL TO THE BOARD SHALL STATE CLEARLY:

- 1) The name, address, and social security number of the claimant.
- 2) A reference to the decision from which the appeal is taken.
- 3) That an appeal from such decision is being made and such appeal is signed.
- 4) The grounds upon which such appeal is based.

An Employment Appeal Board decision is final agency action. If a party disagrees with the Employment Appeal Board decision, they may then file a petition for judicial review in district court.

2. If no one files an appeal of the judge's decision with the Employment Appeal Board within fifteen (15) days, the decision becomes final agency action, and you have the option to file a petition for judicial review in District Court within thirty (30) days after the decision becomes final. Additional information on how to file a petition can be found at Iowa Code §17A.19, which is online at <https://www.legis.iowa.gov/docs/code/17A.19.pdf> or by contacting the District Court Clerk of Court <https://www.iowacourts.gov/iowa-courts/court-directory/>.

**Note to Parties:** YOU MAY REPRESENT yourself in the appeal or obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds.

**Note to Claimant:** It is important that you file your weekly claim as directed, while this appeal is pending, to protect your continuing right to benefits.

**SERVICE INFORMATION:**

A true and correct copy of this decision was mailed to each of the parties listed.

**DERECHOS DE APELACIÓN.** Si no está de acuerdo con la decisión, usted o cualquier parte interesada puede:

1. Apelar a la Junta de Apelaciones de Empleo dentro de los quince (15) días de la fecha bajo la firma del juez presentando una apelación por escrito por correo, fax o en línea a:

**Employment Appeal Board  
4th Floor – Lucas Building  
Des Moines, Iowa 50319  
Fax: (515)281-7191  
En línea: eab.iowa.gov**

El período de apelación se extenderá hasta el siguiente día hábil si el último día para apelar cae en fin de semana o día feriado legal.

**UNA APELACIÓN A LA JUNTA DEBE ESTABLECER CLARAMENTE:**

- 1) El nombre, dirección y número de seguro social del reclamante.
- 2) Una referencia a la decisión de la que se toma la apelación.
- 3) Que se interponga recurso de apelación contra tal decisión y se firme dicho recurso.
- 4) Los fundamentos en que se funda dicho recurso.

Una decisión de la Junta de Apelaciones de Empleo es una acción final de la agencia. Si una de las partes no está de acuerdo con la decisión de la Junta de Apelación de Empleo, puede presentar una petición de revisión judicial en el tribunal de distrito.

2. Si nadie presenta una apelación de la decisión del juez ante la Junta de Apelaciones Laborales dentro de los quince (15) días, la decisión se convierte en acción final de la agencia y usted tiene la opción de presentar una petición de revisión judicial en el Tribunal de Distrito dentro de los treinta (30) días después de que la decisión adquiera firmeza. Puede encontrar información adicional sobre cómo presentar una petición en el Código de Iowa §17A.19, que se encuentra en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf> o comunicándose con el Tribunal de Distrito Secretario del tribunal <https://www.iowacourts.gov/iowa-courts/court-directory/>.

**Nota para las partes:** USTED PUEDE REPRESENTARSE en la apelación u obtener un abogado u otra parte interesada para que lo haga, siempre que no haya gastos para Workforce Development. Si desea ser representado por un abogado, puede obtener los servicios de un abogado privado o uno cuyos servicios se paguen con fondos públicos.

**Nota para el reclamante:** es importante que presente su reclamo semanal según las instrucciones, mientras esta apelación está pendiente, para proteger su derecho continuo a los beneficios.

**SERVICIO DE INFORMACIÓN:**

Se envió por correo una copia fiel y correcta de esta decisión a cada una de las partes enumeradas.