

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**ADAM M KUCERA**  
Claimant

**CORN BEEF FEED LOT INC**  
Employer

**APPEAL 18A-UI-11280-SC-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 01/21/18  
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:**

Corn Beef Feed Lot, 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 6, 2018, pursuant to due notice. Adam M. Kucera (claimant) participated personally. The employer participated through Office Manager Michelle Haan and Owner Nolan Dewart. The Department's Exhibits D1 through D3 were received.

**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 was injured on February 13, 2017, during his last day of work. On January 12, 2018, he was separated from employment. The claimant filed his claim for benefits effective January 21, 2018.

The notice of claim was mailed to the employer's address of record on January 24, 2018. 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 November 9, 2018 for the third quarter of 2018. The employer filed its appeal of that Statement of Charges on November 19, 2018.

Whether the claimant is eligible for unemployment insurance benefits based on his separation from the employer and whether he is able to and available for work 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 that the employer 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 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. The employer's appeal of that Statement within thirty days is timely.

The issues of whether the claimant is eligible for unemployment insurance benefits based on his separation from the employer and whether he is able to and available for work 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 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:**

The issues of whether the claimant is eligible for unemployment insurance benefits based on his separation from the employer and whether he is able to and available for work are remanded to the Benefits Bureau of IWD for an initial investigation and determination.

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Stephanie R. Callahan  
Administrative Law Judge

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Decision Dated and Mailed

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