

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ABIGAIL L CORNELIUS
Claimant

DALLAS CENTER – GRIMES COMM SCH
Employer

APPEAL 20A-UI-13619-CL-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 04/05/20
Claimant: Respondent (4)

Iowa Code § 96.6(2) – Timeliness of Protest
Iowa Code § 96.7(2)a(6) – Appeal from the Statement of Charges
Iowa Code Chapter 96 – Requalification

STATEMENT OF THE CASE:

On October 30, 2020, the employer filed an appeal from Statement of Charges dated October 15, 2020, for the third quarter of 2020. A hearing was scheduled for December 30, 2020, pursuant to due notice. Claimant sent a letter stating she would not be participating in the hearing. Employer participated through business manager Michelle Wearmouth. Official notice was taken of the administrative record. Employer’s Exhibit 1 was received.

ISSUES:

Is the employer’s protest timely?
Is the employer’s appeal from the statement of charges timely?
Has claimant requalified for benefits?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant filed a claim for unemployment insurance benefits with an effective date of April 5, 2020.

On April 13, 2020, Iowa Workforce Development (IWD) mailed a notice of claim to employer’s last address of record. Employer did not receive the notice of claim. Therefore, employer did not file a timely protest.

Employer’s first notice of charges for the benefits was the receipt of the Notice of Reimbursable Charges mailed July 15, 2020, for the second quarter of 2020. Employer received the notice of reimbursable charges shortly thereafter. Business manager Michelle Wearmouth called IWD to ask about charges for the claimant as claimant changed her last name since working for employer and employer did not have records of employing anyone with claimant’s current name. The IWD representative that Wearmouth spoke with informed her that it appeared IWD made a mistake by charging employer for benefits, as claimant had previously worked for an employer with a similar account number. Wearmouth figured the issue was resolved and did not pursue it further.

On October 15, 2020, IWD sent employer a notice of reimbursable charges again included charges for claimant. Business manager Wearmouth again contacted IWD, and this time was directed to employer liability specialist, Brianne Crousire, who informed Wearmouth of claimant's previous last name.

On October 29, 2020, employer filed an appeal of the charges for claimant's unemployment insurance benefits.

The claimant has requalified for benefits since the separation from the employer and prior to filing this claim.

REASONING AND CONCLUSIONS OF LAW:

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 did not appeal the July 15, 2020, notice of reimbursable charges was because of bad advice given by IWD. The administrative law judge concludes that the employer's appeal of the most recent statement charges within 30 days is timely. The employer did not have prior notice of the claim. The administrative law judge further concludes that the claimant has requalified for benefits since the separation from this employer. Accordingly, benefits are allowed and the account of the employer shall not be charged.

DECISION:

The October 15, 2020, Notice of Reimbursable Charges for the third quarter of 2020 is modified in favor of the appellant. The employer has filed a timely protest and a timely appeal from that Statement of Charges. The claimant has requalified for benefits since the separation. Benefits are allowed, provided the claimant is otherwise eligible. The account of the employer shall not be charged.



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January 20, 2021
Decision Dated and Mailed

cal/kmj