

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

MARIA C CAVIN
Claimant

FOCUS SERVICES LLC
Employer

APPEAL 20A-UI-06055-DB-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 03/15/20
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:

On June 9, 2020 the employer filed an appeal from the Statement of Charges dated May 8, 2020, for the first quarter of 2020. A hearing was scheduled and held on July 15, 2020, pursuant to due notice. Claimant did not participate. Employer participated through witness Jane Robertson. Ruth Burch was present at the hearing. Official notice was taken of the administrative records.

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: Claimant filed a claim for unemployment insurance benefits with an effective date of March 15, 2020. The employer received the notice of claim and filed a timely protest to the claim on March 26, 2020 through the electronic SIDES system. The employer intended to protest the claimant's eligibility for benefits due to her separation from employment with this employer.

The employer's first notice that benefits were allowed was the receipt of the statement of charges mailed on May 8, 2020 for the first quarter of 2020. The employer filed its appeal of that statement of charges on June 9, 2020. No fact-finding interview was conducted and no unemployment insurance benefits decision was issued regarding whether the claimant's separation from employment with this employer was disqualifying or whether the employer may be relived of benefits charged. The issue of whether the claimant's separation from employment was disqualifying and whether the employers account may be charged for benefits paid has not been adjudicated by the IWD Benefits Bureau.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the employer filed a timely appeal from the statement of charges.

Iowa Code section 96.6(2) provides:

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 issuing the notice of the filing of the claim to protest payment of benefits to the claimant. All interested parties shall select a format as specified by the department to receive such notifications. The representative shall promptly examine the claim and any protest, take the initiative to ascertain relevant information concerning the claim, and, on the basis of the facts found by the representative, shall determine whether or not the claim is valid, the week with respect to which benefits shall commence, the weekly benefit amount payable and its maximum duration, and whether any disqualification shall be imposed. The claimant has the burden of proving that the claimant meets the basic eligibility conditions of section 96.4. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to section 96.5, except as provided by this subsection. The claimant has the initial burden to produce evidence showing that the claimant is not disqualified for benefits in cases involving section 96.5, subsections 10 and 11, and has the burden of proving that a voluntary quit pursuant to section 96.5, subsection 1, was for good cause attributable to the employer and that the claimant is not disqualified for benefits in cases involving section 96.5, subsection 1, paragraphs "a" through "h". Unless the claimant or other interested party, after notification or within ten calendar days after notification was issued, files an appeal from the decision, the decision is final and benefits shall be paid or denied in accordance with the decision. If an administrative law judge affirms a decision of the representative, or the appeal board affirms a decision of the administrative law judge allowing benefits, the benefits shall be paid regardless of any appeal which is thereafter taken, but if the decision is finally reversed, no employer's account shall be charged with benefits so paid and this relief from charges shall apply to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

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 administrative law judge concludes that 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 any notification that the claimant was eligible for benefits and that the employer's account may be charged for benefits paid. The employer's appeal of that statement within thirty days is timely.

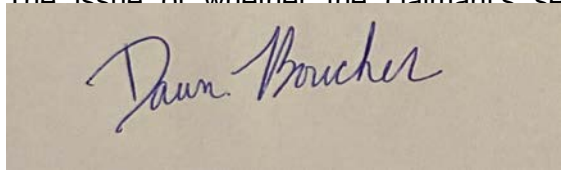
The issue of whether the claimant's separation from employment is disqualifying and/or whether the employer's account may be relieved of any charges is remanded to the Benefits Bureau of IWD for an initial investigation and determination.

DECISION:

The May 8, 2020 statement of charges for the first quarter of 2020 is affirmed pending a determination on whether claimant's separation from employment with this employer is disqualifying and whether the employer's account may be charged for benefits paid. The employer has filed a timely appeal from that statement of charges.

REMAND:

The issue of whether the claimant's separation from employment is disqualifying, and/or relieved of charges shall be remanded to the Benefits Administration.

A rectangular area containing a handwritten signature in blue ink that reads "Dawn Boucher". The signature is written in a cursive style.

Dawn Boucher
Administrative Law Judge

July 23, 2020
Decision Dated and Mailed

db/scn