

**IN THE IOWA ADMINISTRATIVE HEARINGS DIVISION  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**TATIANNA LEE**  
Claimant

**SAIF MANAGEMENT LLC**  
Employer

**APPEAL 24R-UI-10245-ED-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 05/26/24  
Claimant: Respondent (1)**

Iowa Code § 96.6(2) – Filing – Timely Protest  
Iowa Code § 96.7(2)a(6) – Statement of Charges

**STATEMENT OF THE CASE:**

On September 23, 2024, the employer filed an appeal from the statement of charges dated August 9, 2024, which listed charges for the second quarter of 2024 ending June 30, 2024. A hearing was scheduled for October 14, 2024, pursuant to due notice. The employer did not call in. A default decision was entered on October 15, 2024. The employer appealed the decision to the Iowa Employment Appeal Board. The Employment Appeal Board issued a remand on December 6, 2024 to hold a hearing. A hearing was scheduled for and held on December 27, 2024. The claimant, Tatianna Lee, did not participate. Employer, Saif Management LLC, participated through witness, Megan Dawood. Department Exhibits 1, 2, and 3 were offered and admitted into the record. Official notice was taken of the administrative record.

**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 benefits with an effective date of May 26, 2024, and the weekly benefit amount is \$156. Claimant separated from the employer in April 2024, in the second quarter of 2024. The administrative record shows that after the separation, but before filing the claim for benefits, the claimant did not earn more than \$1,560.00.

The notice of claim was provided to the employer in the SIDES system with an e-mail alert on May 30, 2024. The email alert was sent to the address: [Lisa@completebusssvc.com](mailto:Lisa@completebusssvc.com). The employer did not receive the email alert. The notice of claim contains a warning that the employer protest response is due ten days from the initial notice date and gave a response deadline of June 10, 2024. Any protest must be postmarked, faxed or returned not later than ten days from the initial mailing date. The employer did not submit a protest because it did not receive the notice of claim.

The first notice of the claimant's claim for benefits was the receipt of the statement of charges mailed August 9, 2024 for the second quarter of 2024. The statement provides that if the employer wishes to file an appeal, that appeal must be submitted within thirty days of the date of mailing. The appeal was due on September 9, 2024. Employer filed its appeal of that statement of charges on September 23, 2024. No decision has been made about the claimant's eligibility for benefits based on her separation from employment in April 2024.

## **REASONING AND CONCLUSION OF LAW:**

For the following reasons, the administrative law judge concludes the employer did not file a timely appeal to the statement of charges and it does not have appeal rights 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. [Emphasis added.]

Iowa Admin. Code r. 871-26.4 provides, in relevant part:

2. An appeal from an initial decision concerning the allowance or denial of benefits shall be filed, by mail, facsimile, or e-mail, online, or in person, not later than ten calendar days, as determined by the postmark or the date stamp after the decision was mailed to the party at its last-known address and shall state the following:
  - a. The name, address and social security number of the claimant;
  - b. A reference to the decision from which appeal is taken; and,
  - c. The grounds upon which the appeal is based.
3. Notwithstanding the provisions of subrule 26.4(2), a contributory employer, which has not previously received a notice of the filing of a valid claim for benefits, may appeal an individual's eligibility to receive benefits within 30 days from the mailing date of the quarterly statement of benefit charges.

4. Also notwithstanding the provisions of subrule 26.4(2), a reimbursable employer, which has not previously received a notice of the filing of a valid claim for benefits, may appeal an individual's eligibility to receive benefits within 15 days of the mailing date of the quarterly billing of benefit charges.

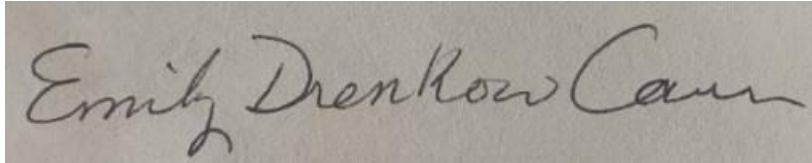
Another portion of this same Code section dealing with timeliness of an appeal from a representative's decision states that such an appeal must be filed within ten days after notification of that decision was mailed. In addressing an issue of timeliness of an appeal under that portion of this Code section, the Iowa Supreme Court held that this statute prescribing the time for notice of appeal clearly limits the time to do so, and that compliance with the appeal notice provision is mandatory and jurisdictional. *Beardslee v. IDJS*, 276 N.W.2d 373 (Iowa 1979).

The administrative law judge considers the reasoning and holding of that court in that decision to be controlling on this portion of that same Iowa Code section which deals with a time limit in which to file an appeal after the mailing of the statement of charges. The employer filed its appeal of the statement of charges after the deadline. The employer has not established that the delay was due to any error by or misinformation from the agency or delay or other action of the United States Postal Service pursuant to Iowa Admin. Code r. 871-24.35(2). It is the employer's responsibility to update or change its email and mailing address with Iowa Workforce Development. As the employer has failed file a timely appeal pursuant to Iowa Code § 96.6(2), the administrative law judge lacks jurisdiction to make a determination with respect to the nature of the claimant's separation from employment. See, *Beardslee v. Iowa Dep't of Job Serv.*, 276 N.W.2d 373 (Iowa 1979); *Franklin v. Iowa Dep't of Job Serv.*, 277 N.W.2d 877 (Iowa 1979) and *Pepsi-Cola Bottling Co. v. Emp't Appeal Bd.*, 465 N.W.2d 674 (Iowa Ct. App. 1990).

The Employer did not receive notice of the claim due to not receiving the email containing the notice, although it is stated on the electronic SIDES as having been sent. Employer's appeal of the statement of charges was on September 23, 2024. The appeal due date was September 9, 2024. The appeal is not timely. Because the appeal is not timely, the administrative law judge lacks jurisdiction to modify the charges to the employer's account.

**DECISION:**

The August 9, 2024, statement of charges for the second quarter of 2024 is affirmed. The employer did not timely appeal the statement of charges and the conditions for appealing the statement of charges have not been met. The August 9, 2024 Statement of Charges are correct.

A handwritten signature in dark ink on a light-colored background. The signature reads "Emily Drenkow Carr" in a cursive, flowing script.

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Emily Drenkow Carr  
Administrative Law Judge

December 30, 2024  
Decision Dated and Mailed

ed/scn

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:

Iowa Employment Appeal Board  
6200 Park Avenue, Suite 100  
Des Moines, Iowa 50321  
Fax: (515)281-7191  
Online: [eab.iowa.gov](http://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:

Iowa Employment Appeal Board  
6200 Park Avenue, Suite 100  
Des Moines, Iowa 50321  
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 adquiriera 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.