

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JEFFREY FIELDS
Claimant

MARIA MELLMANN
KUHLMAN LAKE SERVICE & WELDING INC
Employer

APPEAL 20A-UI-11441-S1-T
ADMINISTRATIVE LAW JUDGE
DECISION

OC: 01/19/20
Claimant: Respondent (1)

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:

The employer filed an appeal from the statement of charges for the first quarter of 2020, reference 04. After due notice was issued, a hearing was held by telephone conference call on November 9, 2020. The claimant participated personally. The employer participated through Maria Mellmann, Office Manager. Department’s Exhibits D-1 and D-2 were received into evidence. The administrative law judge took official notice of the administrative file.

ISSUE:

The issue is whether the employer’s protest is timely and whether its protest of the statement of charges is timely.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant established a claim for unemployment insurance benefits effective January 19, 2020. The employer has opted to participate in the multistate SIDES program, and so a notification of claim was transmitted to the employer on January 21, 2020. The notice contained a warning that a protest must be received by the Agency by February 3, 2020. The employer responded on February 22, 2020, saying the reason for the separation was “Laid Off/Lack of Work”. The employer wrote additional comments, “We have a big job coming in the end of February and Jeff will return to work full time then”. It did not protest the claimant’s receipt of unemployment insurance benefits.

On April 8, 2020, the employer went to www.iowaworkforcedevelopment.gov and reported a change in the claimant’s employment status.

On May 8, 2020, the employer was mailed a statement of charges for the first quarter of 2020. The document contained information that stated, “If you did not previously receive an initial notice of claim and wish to appeal the eligibility for unemployment insurance benefits of a claimant identified on this form, you may appeal in writing within 30 days after the date of the

mailing of this statement.” The employer appealed the statement of charges on September 14, 2020.

REASONING AND CONCLUSIONS OF LAW:

The first issue to be considered in this appeal is whether the employer's protest is timely. The administrative law judge determines it is.

Iowa Code section 96.6(2) provides, in pertinent part:

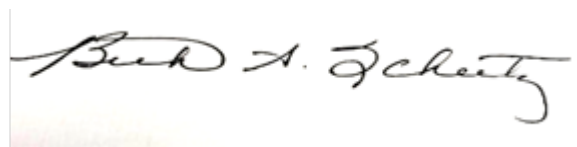
2. Initial determination. A representative designated by the director shall promptly notify all interested parties to the claim of its filing, and the parties have ten days from the date of mailing the notice of the filing of the claim by ordinary mail to the last known address to protest payment of benefits to the claimant.

The employer transmitted the SIDES form within the time allowed by law. The employer's SIDES form did not protest the payment of benefits. While the employer responded, there was no protest within the acceptable period. The employer filed its response within the time allotted.

With regard to the timeliness of the employer's appeal of the statement of charges with the thirty-day period prescribed by the Iowa Employment Security Law, the employer did receive the statement of charges indicating the claimant had filed a claim for benefits. It did not file an appeal within the thirty-day period. However, an employer is only allowed to appeal the statement of charges for a hearing to determine the eligibility of the individual to receive benefits if they were not previously notified pursuant to Iowa Code § 96.6(2) of the allowance of benefits or meet the requirements under Iowa Admin. Code r. 871-24.35(2) in filing a timely protest. As such, the conditions for appealing the statement of charges under Iowa Code § 96.7(2)a(6) have not been met. The first quarter, statement of charges is affirmed regarding the claimant.

DECISION:

The reference 04, statement of charges for the first quarter of 2020, is affirmed. The employer transmitted not filed a timely SIDES form but did not protest the claimant's receipt of unemployment insurance benefits. Benefits are allowed, provided the claimant is otherwise eligible.



Beth A. Scheetz
Administrative Law Judge

November 16, 2020
Decision Dated and Mailed