

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**MICHAEL L ROGERS**  
Claimant

**APPEAL 18A-UI-07598-SC-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**PORTER MOVING COMPANY LLC**  
Employer

**OC: 12/24/17  
Claimant: Respondent (1)**

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Iowa Code § 96.7(2)a(6) – Appeal from the Statement of Charges

**STATEMENT OF THE CASE:**

Porter Moving Company LLC (employer) filed an appeal from the Statement of Charges dated July 16, 2018, for the first quarter of 2018. A hearing was held on August 3, 2018, pursuant to due notice, and was consolidated with the hearing for appeal 18A-UI-07597-SC-T. Michael L. Rogers (claimant) did not respond to the hearing notice and did not participate. The employer participated through Operations Manager John Davis. The Department's Exhibits D1 through D4 were received.

**ISSUE:**

Was the employer's appeal from the statement of charges timely?

**FINDINGS OF FACT:**

Having reviewed the evidence in the record, the administrative law judge finds: The claimant filed his claim for benefits effective December 24, 2017. He had separated from the employer in November 2016. The notice of claim was mailed to the employer on December 27, 2017 and contained a warning that any protest needed to be filed by January 8, 2018. (Exhibit D1) During November and December 2017, the employer was moving locations. Its mail is sent to a post office box, but during the move some of the mail collected from the post office box was misplaced during the move in boxes or on desks. On January 24, 2018, Operations Manager John Davis responded to the notice of claim. He explained that due to an unusually busy holiday season, the employer did not have adequate time to return the protest. (Exhibit D1) The employer normally receives its mail from Des Moines within two to three days.

On February 1, 2018, an unemployment insurance decision, reference 04, was mailed to the employer's address of record. The decision contained a warning that an appeal must be filed by February 11, 2018. Davis did not receive the unemployment insurance decision; however, he does not believe it was due to a failure to deliver to the employer's post office box, but likely due to the move or overlooked during the busy season. On July 6, 2018, a Statement of Charges for the first quarter of 2018 was mailed to the employer's address. The employer filed its appeal to the Statement of Charges on July 16, 2018.

## REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the employer's appeal to the Statement of Charges challenging the receipt of the claimant's unemployment insurance benefits is not timely and the Statement of Charges is affirmed.

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. [Emphasis added.]

The administrative law judge concludes that the employer's appeal of the Statement of Charges challenging the claimant's receipt of benefits is not timely. An employer has the ability to appeal the Statement of Charges and challenge the benefits received by the claimant only if it did not receive prior notice of the claimant's claim for benefits. Iowa Code § 96.7(2)a(6). In this case, the employer had prior notice that the claimant was eligible for benefits chargeable to its account and any challenges to the claimant's receipt of benefits have been addressed by the agency in other decisions. The Statement of Charges is affirmed.

**DECISION:**

The July 16, 2018, Statement of Charges for the first quarter of 2018 is affirmed. The employer's appeal to the Statement of Charges challenging the claimant's receipt of benefits is not timely as the employer had prior notice that the claimant had filed a claim for benefits.

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Stephanie R. Callahan  
Administrative Law Judge

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Decision Dated and Mailed

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