

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

COLTON S CASON
Claimant

JETT AND MONKEY'S DOG SHOPPE LTD
Employer

APPEAL 19A-UI-01956-CL-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 09/02/18
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:

The employer filed an appeal from the February 8, 2019, Statement of Charges that included charges for claimant's unemployment insurance benefits. The parties were properly notified about the hearing. A telephone hearing was held on March 25, 2019. Claimant participated. Employer participated through co-owner Jennifer Kluesner and co-owner/treasurer Kevin Schnell. Department's Exhibit D-1 was received. Employer's Exhibit 1 was received.

ISSUES:

Is the employer's protest timely?
Is the employer's appeal of the Statement of Charges timely?
Is the Statement of Charges correct?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Iowa Workforce Development sent a notice of claim to employer on September 7, 2018. Employer received the notice of claim within 10 days. The notice of claim gave a response deadline of September 17, 2018. Employer faxed a protest to Iowa Workforce Development on September 16, 2018. Iowa Workforce Development did not receive the protest. Employer did not receive any message on its fax machine stating the transmission was not successful.

Employer's first notice the transmission was unsuccessful was the February 8, 2019, Statement of Charges that included charges for claimant's unemployment insurance benefits. Employer filed an appeal on March 4, 2019.

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 administrative law judge concludes that the employer filed its protest in a timely manner, but it was not received. Employer's first notice that the protest was not received was the Statement of Charges mailed on February 8, 2019. The employer's appeal of that Statement within thirty days is timely.

The issue regarding the reason for the separation is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination.

DECISION:

The February 8, 2019, Statement of Charges for the fourth quarter of 2018 is affirmed pending a determination on whether claimant is qualified to receive benefits. The employer has filed a timely protest and a timely appeal from that Statement of Charges.

REMAND:

The issue of whether claimant's separation from employment disqualifies him from receiving unemployment insurance benefits is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination.

Christine A. Louis
Administrative Law Judge
Unemployment Insurance Appeals Bureau
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Decision Dated and Mailed

cal/scn