

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

CESAR A DIAZ
Claimant

ADVANCE SERVICES INC
Employer

APPEAL 20A-UI-01999-DG-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 05/05/19
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 notice of charges dated February 7, 2020 for the fourth quarter of 2019. Due notice was issued and a hearing was held on April 20, 2020. Claimant did not participate. Employer participated through Melissa Lewein, Claims Manager. Exhibit D-1 was received. The administrative law judge took official notice of the administrative record.

ISSUES:

Is the employer's protest timely?
Did the employer timely appeal the statement of charges?

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 May 5, 2019. Iowa Workforce Development did not provide employer with a notice of claim in the SIDES system or by regular mail.

This is a combined wage claim. The claim information was sent to another state, and the employer was not given notice of the claim.

Employer first became aware that claimant filed a claim for unemployment insurance benefits when it received the notice of the statement of charges mailed by Iowa Workforce Development on February 7, 2020. Employer filed a timely appeal.

Employer is protesting the claim on the basis that claimant voluntarily resigned and it was never notified of the claim, and not given an opportunity to file a protest.

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.

Iowa Code section 96.7(2)a(6), which applies to contributory employers, provides guidance in the situation here, which deals with a reimbursable employer. It states that an employer who did not receive notice of the claim may appeal to the department for a hearing to determine the eligibility of an individual to receive benefits.

The administrative law judge concludes that the employer did not receive notice of the claim. The administrative law judge further concludes that the employer's appeal of the statement of charges is timely.

Because the appeal is timely and employer never previously received notice of the claim, the issues of the reason for the separation and the combined wage claim are remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination.

DECISION:

The February 7, 2020 statement of charges for the fourth quarter of 2019 is affirmed pending a determination on whether claimant is eligible for benefits and whether employer should be charged for those benefits, or if this combined wage claim was transferred and the department provided notice pursuant to the administrative code.

REMAND:

The issues of whether claimant's notice of claim was processed properly, and whether a notice of a combined wage claim was sent to employer is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination.



Duane L. Golden
Administrative Law Judge

April 21, 2020
Decision Dated and Mailed

dlg/scn