

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

MADISON SCHUETTE
Claimant

DAVIDSON FAMILY DENTISTRY LLC
Employer

APPEAL 21A-UI-01234-CL-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/29/20
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 Statement of Charges dated November 9, 2020, for the third quarter of 2020. A hearing was scheduled and held on February 17, 2021, pursuant to due notice. Claimant participated. Employer participated through office administrator Diane Davidson. Linda Garrett observed.

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 insurance benefits with an effective date of March 29, 2020. On April 1, 2020, Iowa Workforce Development mailed a notice of claim to employer's last address of record. Employer did not file a protest as claimant was on a temporarily lay off due to a government imposed shutdown.

After the shutdown, claimant returned to work. Claimant was separated from employment on July 17, 2020. Claimant continued filing weekly continued claims for benefits so at no time was her claim identified as an additional or reopened claim.

On November 9, 2020, Iowa Workforce Development mailed a statement of charges to employer for the third quarter of 2020. It was employer's first notice that claimant may have received benefits after her separation from employment on July 17, 2020.

No initial decision has been made by the Benefits Bureau of Iowa Workforce Development on whether claimant is qualified to receive unemployment insurance benefits based on her separation from employment on July 17, 2020.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the employer filed a timely appeal from 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.

The administrative law judge concludes that the employer filed its appeal of the Statement of Charges within the time period prescribed by the Iowa Employment Security Law because it did not have a reasonable opportunity to protest the notice of claim after the claimant separated from employment. Although the employer had the right to file a Notice of Separation form, it cannot be bound by its failure to do so. Iowa Admin. Code r. 871-24.8(2)(d) ("the employer has the *option* of notifying the department. . ."). The employer's appeal of the Statement of Charges within thirty days is timely. The issue of whether claimant's separation from employment on July 17, 2020, disqualifies claimant from receiving benefits after that point is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination.

DECISION:

The November 9, 2020, Statement of Charges for the third quarter of 2020 is affirmed pending a determination on whether claimant is qualified to receive unemployment insurance benefits for weeks after July 17, 2020. The employer has filed a timely appeal from the Statement of Charges, as it did not have a reasonable opportunity to protest the Notice of Claim after claimant's separation from employment.

REMAND:

The issue of whether claimant is disqualified from receiving unemployment insurance benefits after her permanent separation from employment on July 17, 2020, is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination.



Christine A. Louis
Administrative Law Judge
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March 1, 2021
Decision Dated and Mailed

cal/lj