

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

RICHARD REID
Claimant

CRST FLATBED REGIONAL INC
Employer

APPEAL 17A-UI-07642-DB-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 11/27/16
Claimant: Respondent (2R)**

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 February 9, 2017, for the fourth quarter of 2016. A hearing was held on August 15, 2017, pursuant to due notice. Claimant did not participate. Employer participated through witness Kelly Pitts. Employer's Exhibits 1 and 2 were admitted. The administrative law judge took administrative notice of the claimant's unemployment insurance benefits records.

ISSUES:

Was the employer's protest or appeal from 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: The employer is registered to receive documents through the SIDES system. The employer received a notice of claim for this claimant on December 5, 2016 with a due date of December 15, 2016. See Exhibit 1. The employer did file a timely protest to the notice of claim on December 15, 2016. See Exhibit 1. Another notice of claim dated March 24, 2017 with a due date of April 3, 2017 regarding this claimant was sent to the employer. The employer filed a timely protest to the notice of claim on March 28, 2017 through the SIDES system stating that it was protesting the claimant's receipt of benefits. The employer received the Statement of Charges dated February 9, 2017 and filed a timely appeal to the Statement of Charges on March 1, 2017. See Exhibit 2.

There has been no initial investigation and determination regarding claimant's separation from this employer. The question of whether the claimant is separated from employment and whether that separation disqualified him from receiving unemployment insurance benefits will be remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes as follows:

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. The employer's appeal of the Statement of Charges within thirty days is timely.

The question of whether the claimant is separated from employment and whether that separation disqualified him from receiving unemployment insurance benefits shall be remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination.

DECISION:

The February 9, 2017, Statement of Charges for the fourth quarter of 2016 is reversed. The employer has filed a timely appeal from that Statement of Charges.

REMAND: The separation issue delineated in the findings of fact is remanded to the Benefits Bureau of Iowa Workforce Development for a fact-finding interview and unemployment insurance decision and as instructed in appeal decision 17A-UI-07641-DB-T.

Dawn Boucher
Administrative Law Judge

Decision Dated and Mailed

db/rvs