

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

**RICHARD A ROLING**  
Claimant

**APPEAL NO. 07A-UI-06102-LT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**L A LEASING INC  
SEDONA STAFFING**  
Employer

**OC: 01/28/07 R: 04**  
**Claimant: Respondent (2-R)**

Iowa Code § 96.7(2)a(6) – Appeal from the Statement of Charges  
Iowa Code § 96.6(2) – Timeliness of Protest

**STATEMENT OF THE CASE:**

The employer filed a timely appeal from the June 8, 2007, reference 02, decision that found the protest untimely and allowed benefits. After due notice was issued, a telephone conference hearing was held on July 5, 2007. Claimant participated. Employer participated through Colleen McGuinty and Nicky Kieffer.

**ISSUE:**

The issue is whether employer's protest or appeal from the statement of charges is timely.

**FINDINGS OF FACT:**

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: Employer did not receive the protest mailed February 5, 2007 and filed its appeal on May 30, 2007 from the first quarter 2007 statement of charges mailed May 9, 2007.

Claimant's separation on February 2, 2007 has not been investigated or decided at the fact-finding level and the parties did not waive a fact-finding interview. Nor have the subsequent offers of work been examined initially.

**REASONING AND CONCLUSIONS OF LAW:**

Iowa Code § 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 § 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 receive the notice of claim indicating the claimant had filed a claim for benefits. The employer's appeal of that Statement within thirty days is timely. The issues of the reason for the separation and any subsequent offers of work are remanded to the claims section of Iowa Workforce Development for an initial investigation and determination.

**DECISION:**

The May 9, 2007, Statement of Charges for the first quarter of 2007 is reversed. The employer has filed a timely appeal from that Statement of Charges, as the Notice of Claim was not received.

**REMAND:**

The issues of the reason for the separation and any subsequent offers of work are remanded to the claims section of Iowa Workforce Development for an initial investigation and determination.

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Dévon M. Lewis  
Administrative Law Judge

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Decision Dated and Mailed

dml/kjw