

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

MONICA OLIVARES
Claimant

APPEAL 17A-UI-11628-SC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

ANKENY PET SALON LLC
Employer

**OC: 07/30/17
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:

Ankeny Pet Salon LLC (employer) filed an appeal from the Statement of Charges dated November 9, 2017, for the third quarter of 2017. A hearing was held on December 4, 2017, pursuant to due notice. Monica Olivares (claimant) did not respond to the hearing notice and did not participate. The employer participated through Owner Amy Smith.

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: The Notice of Claim was mailed to the employer's address of record on August 4, 2017. The employer did not receive that notice. The first notice of the claimant's claim for benefits was the receipt of the Statement of Charges mailed November 9, 2017 for the third quarter of 2017. The employer filed its appeal of that Statement of Charges on November 12, 2017. There are issues of the reason for the separation and requalification that have not yet been investigated or adjudicated at the claims level.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge finds the employer did not receive the Notice of Claim and filed a timely appeal to the Statement of Charges. The issue of whether the claimant's separation qualifies her for unemployment insurance benefits has not yet been investigated or adjudicated by the Benefits Bureau.

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 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 issue of whether the claimant's separation from this employer qualifies her for unemployment insurance benefits is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination.

DECISION:

The November 9, 2017, Statement of Charges for the third quarter of 2017 is affirmed pending the outcome of the remanded separation issue. The employer has filed a timely appeal from that Statement of Charges, as the Notice of Claim was not received.

REMAND:

The issue of whether the claimant's separation from this employer qualifies her for unemployment insurance benefits is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination.

Stephanie R. Callahan
Administrative Law Judge

Decision Dated and Mailed

src/scn