

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ZACHARY R JAMES
Claimant

APPEAL 18A-UI-02185-SC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

FEEDERS GRAIN & SUPPLY INC
Employer

**OC: 09/17/17
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:

Feeders Grain & Supply, Inc. (employer) filed an appeal from the Statement of Charges dated February 9, 2018, for the fourth quarter of 2017. A hearing was held on March 14, 2018, pursuant to due notice. Zachary R. James (claimant) did not respond to the hearing notice and did not participate. The employer participated through Office Manager Helen Hickman. Owner Jim Curtis was sworn in as a witness but did not testify. The Department's Exhibits D1 and D2 were received.

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 claimant filed a claim for benefits effective September 17, 2017. No notice of claim was mailed to the employer. The employer's first notice of the claimant's claim for benefits was the receipt of the Statement of Charges mailed February 9, 2018 for the fourth quarter of 2017. (Exhibit D1) The employer filed its appeal of that Statement of Charges on February 16, 2018. (Exhibit D2) Whether the claimant's separation from the employer qualifies him for unemployment insurance benefits has not yet been investigated or adjudicated by the Benefits Bureau.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the employer's appeal to the Statement of Charges is timely.

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 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 a notice of claim indicating the claimant had filed a claim for benefits. The employer's appeal of that Statement of Charges within thirty days is timely. The issue of whether the claimant's separation from the employer qualifies him for unemployment insurance benefits is remanded to the Benefits Bureau for an initial investigation and determination.

DECISION:

The February 9, 2018, Statement of Charges for the fourth quarter of 2017 is affirmed pending the outcome of the remanded issues. The employer has filed a timely appeal from that Statement of Charges, as it did not receive a notice of claim.

REMAND:

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

Stephanie R. Callahan
Administrative Law Judge

Decision Dated and Mailed

src/scn