

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**ALICE L MOORE**  
Claimant

**BLACK HAWK COUNTY**  
Employer

**APPEAL 20A-UI-00787-DB-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 10/20/19**  
**Claimant: Respondent (1)**

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 an appeal from the Statement of Charges dated January 15, 2020, for the fourth quarter of 2019. A telephone hearing was held on February 12, 2020, pursuant to due notice. The claimant participated personally. The employer participated through witness Amanda Fesenmeyer. The hearing was consolidated with Appeal No. 20A-UI-00907-DB-T. The administrative law judge took official notice of the claimant's unemployment insurance benefits records, including the employer's statement of protest submitted through the SIDES system.

**ISSUES:**

Is the employer's appeal from the statement of charges timely?  
Was the employer's protest timely?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: A notice of claim was emailed to the employer's correct email address on October 22, 2019. See statement of protest. The employer returned its statement of protest via the electronic SIDES system on October 23, 2019, which was prior to the November 4, 2019 due date. No initial investigation and determination regarding whether the claimant's separation from employment was conducted when Iowa Workforce Development received the employer's protest in October of 2019. Claimant has received unemployment insurance benefits effective October 20, 2019.

The employer first became aware the claimant was allowed benefits when it received the notice of reimbursable benefit charges dated January 15, 2020, for the fourth quarter of 2019. The employer filed an appeal to the notice of reimbursable benefit charges on January 24, 2020.

The Benefits Bureau of Iowa Workforce Development issued a decision regarding the claimant's separation from this employer on January 27, 2020 (reference 07) and determined that the claimant was eligible for benefits because she was laid off on December 31, 2018 from this employer due to lack of work. That unemployment insurance decision was appealed by the

employer and the appeal hearing was consolidated with this case. See appeal decision 20A-UI-00907-DB-T. The administrative law judge found the claimant was eligible for benefits due to a lay off and that the employer's account may be subject to charges, pending an investigation by Iowa Workforce Development Tax Bureau on whether the employer's account may be relieved of charges under Iowa Code § 96.5(1)i. See Appeal No. 20A-UI-00907-DB-T.

The employer operated a nursing home facility which the claimant was employed at full-time as a developmental aide. She began working for this employer on May 3, 2004 and her employment ended on December 31, 2018 because the employer sold the nursing home facility to a private entity, named Pritok Capital LLC a/k/a Black Hawk Nursing and Rehab and d/b/a Country View Nursing Facility ("Black Hawk Nursing and Rehab") (employer account 612138). Claimant accepted employment with Black Hawk Nursing and Rehab as a developmental aide and began working for this employer on January 1, 2019. The claimant's hourly rate of pay was reduced when she began working for Black Hawk Nursing and Rehab.

Claimant's administrative records establish that no fact-finding interview was conducted by Iowa Workforce Development regarding the claimant's separation from employment with this employer. The employer's statement of protest stated that "Black Hawk County sold the Country View Care Facility where Alice had worked, to a private company at the end of 2018 (12/31/2018). The new company, Pritok Capital LLC, took over operations on 1/1/19 and Alice went to work for the new owner." The claimant has received benefits of \$6,569.00 since filing her original claim for benefits effective October 20, 2019.

#### **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.

In this case, the employer did file a timely statement of protest when it filed its electronic SIDES statement of protest on October 23, 2019.

Iowa Code section 96.7(8)B(4) provides:

8. Financing benefits paid to employees of nonprofit organizations.
  - b. Reimbursements for benefits paid in lieu of contributions shall be made in accordance with the following:
    - (4) The amount due specified in a bill from the department is conclusive unless, not later than fifteen days following the date the bill was mailed or otherwise delivered to the last known address of the nonprofit organization, the nonprofit organization files an application for redetermination with the department setting forth the grounds for the application. The department shall promptly review the amount due specified in the bill and shall issue a redetermination. The redetermination is conclusive on the nonprofit organization unless, not later than thirty days after the redetermination was mailed or otherwise delivered to

the last known address of the nonprofit organization, the nonprofit organization files an appeal to the district court pursuant to subsection 5.

Iowa Code section 96.7(2)a(6), which applies to contributory employers, provides guidance in this situation, which deals with a reimbursable employer. An employer who did not receive notice of the claim may appeal to the department for a hearing to determine the eligibility of an individual to receive benefits. However, an employer is only allowed to appeal the statement of charges for a hearing to determine the eligibility of the individual to receive benefits if they were not previously notified pursuant to Iowa Code § 96.6(2) of the allowance of benefits.

The employer was previously notified of the claim and it filed a timely protest. However, no decision regarding claimant's separation was issued until January 27, 2020 (reference 07). That decision was appealed by the employer and claimant was found to be eligible for benefits due to a lay off. See Appeal No. 20A-UI-00907-DB-T. The statement of charges for the fourth quarter of 2019 is affirmed, pending an investigation by Iowa Workforce Development Tax Bureau on whether the employer's account may be relieved of charges under Iowa Code § 96.5(1)i. See Appeal No. 20A-UI-00907-DB-T (remanded issue).

**DECISION:**

The employer filed a timely appeal. The January 15, 2020 statement of charges is affirmed, pending an investigation by Iowa Workforce Development Tax Bureau on whether the employer's account may be relieved of charges under Iowa Code § 96.5(1)i. See Appeal No. 20A-UI-00907-DB-T (remanded issue).

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Dawn Boucher  
Administrative Law Judge

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Decision Dated and Mailed

db/scn