

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**JACQUE A REISNER**  
Claimant

**SUNNYSIDE TAVERN & CAFÉ LLC**  
Employer

**APPEAL 19A-UI-06940-CL-T**

**AMENDED  
ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 04/28/19  
Claimant: Respondent (1)**

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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:**

On August 27, 2019, the employer filed an appeal from the Statement of Charges dated August 9, 2019, for the second quarter of 2019. A hearing was scheduled and held on September 18, 2019, pursuant to due notice. Claimant did not participate. Employer participated through owner Jason Douglas. Employer's Exhibits 1 through 3 were received. On September 24, 2019, the administrative law judge issued a decision.

On September 27, 2019, the administrative law judge vacated the decision on her own motion because of newly discovered evidence.

A new hearing was scheduled for October 9, 2019, at 9:00 a.m. before a different administrative law judge. The parties were notified of the hearing. Claimant did not register for the hearing and did not participate. Employer participated through owner Jason Douglas. Employer's Exhibits 1 through 3 were received. The administrative law judge took official notice of the administrative record, including the Notice of Claim and protest.

**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: Iowa Workforce Development mailed a Notice of Claim to employer on May 3, 2019. The Notice of Claim gave a response deadline of May 13, 2019. On May 8, 2019, employer filed a protest stating that claimant was discharged on May 1, 2019.

On May 31, 2019, Iowa Workforce Development issued a Reference 04 decision allowing claimant benefits based on her separation from employment. That decision has been set up for hearing in Appeal Number 19A-UI-07591-CL-T.

**REASONING AND CONCLUSIONS OF LAW:**

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.

In this case, whether the employer filed a timely protest is not at issue. The statute above states that an employer can appeal a Statement of Charges only where it had not previously been notified of the claim. Here, the employer was notified of the claim and has timely protested the claim.

The issue of whether employer will be charged for claimant's benefits turns on whether employer is successful in its appeal of the decision allowing claimant benefits based on her separation from employment. That issue will be decided in Appeal Number 19A-UI-07591-CL-T.

**DECISION:**

The Statement of Charges dated August 9, 2019, for the second quarter of 2019 is affirmed pending a determination on whether claimant is qualified to receive benefits, whether claimant has been overpaid benefits, and whether employer should be charged for those benefits. Those issues will be addressed in 19A-UI-07591-CL-T.

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Decision Dated and Mailed

cal/scn