

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

GREGORY D EISCHENS
Claimant

APPEAL 19A-UI-07158-JC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

MINNIS WOODWORKING INC
Employer

**OC: 05/05/19
Claimant: Respondent (4)**

Iowa Code § 96.6(2) – Timeliness of Protest
Iowa Code § 96.7(2)a(6) – Appeal from the Statement of Charges
Iowa Code Chapter 96 – Requalification

STATEMENT OF THE CASE:

The employer filed an appeal from Statement of Charges dated August 9, 2019 for the second quarter of 2019. Due notice was issued to the parties and a telephone hearing was conducted on October 2, 2019. The claimant participated personally. The employer participated through Kelly Minnis, owner. Department's Exhibits D-1 – D-3 were received. The administrative law judge took official notice of the administrative record, including the Notice of Claim. Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

NOTE TO EMPLOYER:

If you wish to change the address of record, please access your account at: <https://www.myiowaui.org/UITIPTaxWeb/>.

To become a SIDES E-Response participant, you may send an email to iwd-sidesinfo@iwd.iowa.gov. To learn more about SIDES, visit <http://info.uisides.org>.

ISSUES:

Is the employer's protest timely?
Is the employer's appeal from the statement of charges timely?
Has claimant requalified for benefits?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The notice of claim was mailed on May 7, 2019 (Department Exhibit D-2). The address used was 4270 Kirkwood Avenue, Osage, Iowa 50461. This has not been a valid mailing address for the employer since 2012. The employer did not receive the notice of claim which had a due date of May 17, 2019.

A review of administrative records (MIUI) reflect that the employer's address for tax matters is 717 West Fourth Street in Saint Ansgar, Iowa, and that is where the statement of charges was mailed. The first notice of charges for the benefits was the receipt of the Statement of Charges mailed August 9, 2019 for the second quarter of 2019 (Department Exhibit D-3). The employer filed its appeal of that Statement of Charges on Monday, September 9, 2019 (Department Exhibit D-1)

The claimant has requalified for benefits since the separation from the employer.

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.

The administrative law judge concludes that the employer timely protested the claim and the employer's appeal of the Statement of Charges within thirty days is timely. The administrative law judge further concludes that the claimant has requalified for benefits since the separation from this employer. Accordingly, benefits are allowed and the account of the employer shall not be charged.

DECISION:

The August 9, 2019, Statement of Charges for the second quarter of 2019 is modified in favor of the appellant. The employer has filed a timely protest and a timely appeal from that Statement of Charges. The claimant has requalified for benefits since the separation. Benefits are allowed, provided the claimant is otherwise eligible. The account of the employer shall not be charged.

Jennifer L. Beckman
Administrative Law Judge

Decision Dated and Mailed

jlb/scn