

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ADAM M REIHMAN
Claimant

CHRISMA INC
Employer

APPEAL 18A-UI-07177-LJ-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 06/10/18
Claimant: Respondent (2R)

Iowa Code § 96.6(2) - Timeliness of Protest

STATEMENT OF THE CASE:

The employer filed a timely appeal from the June 28, 2018, (reference 01) unemployment insurance decision that found the protest untimely and allowed benefits. After due notice was issued, a hearing was held on July 20, 2018. The claimant, Adam M. Reihman, participated. The employer, Chrisma, Inc., participated by Stephanie Breitbach, General Manager. Department's Exhibit D-1 was received.

ISSUE:

Was the employer's protest timely?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant's notice of claim was mailed to employer's address of record on June 12, 2018, and was received by employer within ten days. The notice of claim contains a warning that the employer protest response is due ten days from the initial notice date and gave a response deadline of June 22, 2018. The employer filed its protest on June 21, 2018.

REASONING AND CONCLUSIONS OF LAW:

The sole issue is whether employer's protest is timely. The administrative law judge concludes it is.

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 Admin. Code r. 871-24.35(1)(a) provides:

Date of submission and extension of time for payments and notices.

(1) Except as otherwise provided by statute or by division rule, any payment, appeal, application, request, notice, objection, petition, report or other information or document submitted to the division shall be considered received by and filed with the division:

a. If transmitted via the United States postal service on the date it is mailed as shown by the postmark, or in the absence of a postmark the postage meter mark of the envelope in which it is received; or if not postmarked or postage meter marked or if the mark is illegible, on the date entered on the document as the date of completion.

The administrative law judge concludes the employer filed its protest within the time period prescribed by the Iowa Employment Security Law. The documentation in Department's Exhibit D-1 clearly shows the employer mailed its protest the day before the protest was due. The employer's postmarked envelope establishes that the employer mailed the protest within the time permitted. Therefore, this protest was timely filed.

DECISION:

The June 28, 2018, (reference 01) unemployment insurance decision is reversed. The employer filed a timely protest.

REMAND:

The separation issue is remanded to the Benefits Bureau of Iowa Workforce Development for a fact-finding interview and unemployment insurance decision.

Elizabeth A. Johnson
Administrative Law Judge

Decision Dated and Mailed

lj/scn