

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

MARY GORDON
Claimant

APPEAL NO: 13A-UI-09938-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

BRAATEN HEALTH LLC
Employer

OC: 06/02/13
Claimant: Respondent (2R)

Iowa Code Section 96.6(2) – Timeliness of Protest

STATEMENT OF THE CASE:

The employer filed a timely appeal from the August 22, 2013, reference 01, decision that allowed benefits and found the protest untimely. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on September 27, 2013. The claimant participated in the hearing. Linda Rubey, Director of Finance and Human Resources, participated in the hearing on behalf of the employer. Department's Exhibit D-1 was admitted into evidence.

ISSUE:

The issue is whether the employer's protest is timely.

FINDINGS OF FACT:

Having reviewed the evidence in the record, the administrative law judge finds: The claimant's notice of claim was mailed to the employer's address of record on June 12, 2013. The employer did not receive the decision because even though it moved its administrative offices and provided a change of address to the Agency, both online and verbally, the notice of claim was sent to the employer's previous address. Consequently, it was not aware the claimant filed for benefits until it received its quarterly statement of charges at which time it contacted the Agency and was instructed to file this appeal. The employer has established a good cause reason for its failure to respond to the notice of claim within the 10-day period as required. There are issues regarding the claimant's separation from Braaten Health June 5, 2013, that have not yet been investigated or adjudicated at the claims level.

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.

The administrative law judge concludes that the employer filed its protest within the time period prescribed by the Iowa Employment Security Law because it made every correct attempt to notify the Agency in an effort to have its mailing address changed but the Agency still mailed the claimant's notice of claim to the employer's previous address. The issue of the separation is remanded to the Claims Section of Iowa Workforce Development for an initial investigation and determination.

DECISION:

The August 22, 2013, reference 01, decision is reversed. The employer has filed a timely protest. The issues of the claimant's separation and potential overpayment are remanded to the Claims Section of Iowa Workforce Development for an initial investigation and determination.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/pjs