

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

BRIAN O STEELE

Claimant

APPEAL 19A-UI-09806-CL-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

SEABOARD FOODS SERVICES INC

Employer

OC: 11/17/19

Claimant: Respondent (4)

Iowa Code Chapter 96 – Requalification
Iowa Code § 96.6(2) – Timeliness of Protest

STATEMENT OF THE CASE:

On December 11, 2019, the employer filed a timely appeal from the December 6, 2019, (reference 04) unemployment insurance decision that allowed benefits based on an untimely protest. A hearing was scheduled for January 9, 2020. No hearing was held as there was sufficient evidence in the administrative record, appeal letter and accompanying documents to resolve the matter without testimony.

ISSUES:

Is the employer's protest timely?

Has the claimant requalified for benefits since the separation from this employer?

FINDINGS OF FACT:

Having reviewed the evidence in the record, the administrative law judge finds: Claimant filed a claim for unemployment insurance benefits with an effective date of November 17, 2019. On November 20, 2019, Iowa Workforce Development sent employer an email alert of the notice of claim in the SIDES system. A response to the notice of claim was due on December 2, 2019.

Under the "specialized knowledge" provision the administrative law judge takes notice of the fact that the SIDES system broker records the date of transmission of the protest to the broker in the field marked "Broker Record Effective Date." See *Neumann Brothers, Inc. v. Derscheid*, 0-036 / 09-1102 (Iowa App. 4-21- 10)(computer records within specialized knowledge of agency). "The Central Broker (or Broker) serves as the 'hub' for SIDES, providing a secure single point of communication for participating states, employers, and [third party administrators]." UISIDES Implementation Guide, v. 3.4.11, National Association of State Workforce Agencies (1/15/2015). "The Broker Effective Date indicates when a record was received in the Central Broker and requires the use of the date and time fields in xs:dateTime to record the exact time of record receptions and transmissions by the Broker." UISIDES Developer Guide Part C, §3.5.4 p. 20-21, National Association of State Workforce Agencies (11/17/2011)(retrieved from archive.org). Xs:datetime format is in the format of YYYY-MM-DDThh:mm:ss format where "YYYY" represents year, "MM" represents month, "DD" represents day, "T" indicates start of time

section, “hh” represents hours, “mm” represents minutes, and “ss” represents seconds. “The Broker Record Transaction Number is given to a single request record on entry into the system and is generated by the Broker. This number uniquely identifies a request, even if multiple copies of the same record are passed through the system (in this case, each record gets its own Broker Record Transaction Number). The Broker Record Transaction Number must be used on the response in order to connect the response with a particular request and, therefore, must be consumed by employer and TPA connectors.” UISIDES Developer Guide Part C, §4.2.4 p. 28, National Association of State Workforce Agencies (11/17/2011).

The Broker Record Effective Date for Broker Record Transaction 31990152 is “2019-12-02T18:00:12.000-05:00.” This is deciphered as December 2, 2019, at 6:00:12 in the evening on the East Coast. In Central Time, then the broker effective date was December 2, 2019 at 5:00 in the evening. This corresponds with documentation provided by employer that a response was recorded on December 2, 2019.

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

REASONING AND CONCLUSIONS OF LAW:

The first 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.

Another portion of this same Code section dealing with timeliness of an appeal from a representative’s decision states that such an appeal must be filed within ten days after notification of that decision was mailed. In addressing an issue of timeliness of an appeal under that portion of this Code section, the Iowa Supreme Court held that this statute prescribing the time for notice of appeal clearly limits the time to do so, and that compliance with the appeal notice provision is mandatory and jurisdictional. *Beardslee v. IDJS*, 276 N.W.2d 373 (Iowa 1979). The administrative law judge considers the reasoning and holding of the Court in that decision to be controlling on this portion of that same Iowa Code section which deals with a time limit in which to file a protest after notification of the filing of the claim has been mailed. By analogy to appeals from initial determinations, we hold that the ten day period for filing a protest is jurisdictional. *Messina v. Iowa Dept. of Job Service*, 341 N.W.2d 52, 55 (Iowa 1983); *Beardslee v. Iowa Dept. Job Service*, 276 N.W.2d 373 (Iowa 1979). The only basis for changing the ten-day period would be where notice to the protesting party was constitutionally invalid. *E.g. Beardslee v. Iowa Dept. Job Service*, 276 N.W.2d 373, 377 (Iowa 1979). The question in such cases becomes whether the protester was deprived of a reasonable opportunity to assert the protest in a timely fashion. *Hendren v. Iowa Employment Sec. Commission*, 217 N.W.2d 255 (Iowa 1974); *Smith v. Iowa Employment Sec. Commission*, 212 N.W.2d 471 (Iowa 1973). The question of whether the Employer has been denied a reasonable opportunity to assert a protest is also informed by rule 871- 24.35(2) which states that “the submission of any ...objection...not within the specified statutory or regulatory period shall be considered timely if it is established to the satisfaction of the division that the delay in submission was due to division error or misinformation or to delay or other action of the United States postal service.”

Here the evidence establishes that the protest was in fact filed in time, but recorded later in one of the fields relied upon by Iowa Workforce. Using the broker field, and the confirmation provided by the employer, the administrative law judge finds the protest was timely.

Based on the evidence, the Appeals Bureau has legal jurisdiction to determine whether the employer's account can be relieved of charges. 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 December 6, 2019, (reference 04) unemployment insurance decision is modified in favor of the appellant. The employer has filed a timely protest and 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.



Christine A. Louis
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January 10, 2020
Decision Dated and Mailed

cal/scn