

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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**JACQUELYN E BATES**  
Claimant

**APPEAL NO. 14A-UI-08765-BT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CASEY'S MARKETING COMPANY  
CASEY'S GENERAL STORES**  
Employer

**OC: 07/27/14  
Claimant: Respondent (4)**

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Iowa Code § 96.6-2 – Timeliness of Protest

**STATEMENT OF THE CASE:**

Casey's General Stores (employer) appealed an unemployment insurance decision dated August 14, 2014 (reference 02) which held it failed to file a timely protest regarding the claimant's separation of employment on February 18, 2014 and no disqualification of unemployment insurance benefits was imposed. Due notice was issued, scheduling the matter for a telephone hearing to be held September 10, 2014. Because a decision fully favorable to the parties could be made based on the record as it stood, a hearing was deemed unnecessary.

**ISSUE:**

The issue is whether the employer's protest in this matter was timely.

**FINDINGS OF FACT:**

The administrative law judge, having reviewed and considered all of the evidence in the record, finds that: The claimant's notice of claim was mailed to the employer's address of record on July 30, 2014. The protest was due on August 11, 2014. The employer received the notice of claim and electronically filed its protest on August 11, 2014 at 6:02 p.m. The State of Iowa picked up the employer's claim response on August 12, 2014 at 8:01 a.m.

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

**REASONING AND CONCLUSIONS OF LAW:**

The issue is whether the employer submitted a timely protest. An employer has ten days from the date a notice of claim is mailed to its last-known address to protest the payment of benefits to the claimant. See Iowa Code § 96.6-2. The notice of claim was sent on July 30, 2014 and the protest was due on August 11, 2014.

The employer received the original notice of claim and electronically submitted its protest on August 11, 2014 at 6:02 p.m. but the Agency considered it filed a day late on August 12, 2014. Simply because the response was electronically submitted after business hours on the due date does not render it received the following day. Since correspondence postmarked on the due

date is considered received when postmarked even though it was not actually received on the due date; likewise, a fax or electronic submission transmitted on the due date but after business hours is considered received when sent. The Administrative Law Judge concludes the protest shall be accepted as 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 employer's protest is timely. The unemployment insurance decision dated August 14, 2014 (reference 02) is modified in favor of the appellant. The claimant has requalified for benefits since the separation. Benefits are allowed, provided the claimant is otherwise eligible. The employer's account shall not be charged.

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Susan D. Ackerman  
Administrative Law Judge

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Decision Dated and Mailed

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