

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

**DUSTIN J LEECH**

Claimant

**APPEAL NO: 20A-UI-11176-JE-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**ROBERT DWYER CONSTRUCTION**

Employer

**OC: 12/29/19**

**Claimant: Respondent (2R)**

Section 96.6-2 - Timeliness of Protest

**STATEMENT OF THE CASE:**

The employer appealed from the August 28, 2020, reference 04, decision that concluded it failed to file a timely protest regarding the claimant's separation of employment on June 26, 2020, and no disqualification of unemployment insurance benefits was imposed. A hearing was scheduled and held on October 21, 2020, pursuant to due notice. The claimant did not respond to the hearing notice and did not participate in the hearing. Sally Starling, Bookkeeper and Robert Dwyer, Owner, participated in the hearing on behalf of the employer. Department's Exhibit D-1 was admitted to the record.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: A duplicate claimant's notice of claim was mailed to the employer's address of record on August 13, 2020. The employer filed its initial protest on July 14, 2020. There are issues regarding the claimant's separation from this employer 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 faxed its protest to the first notice of claim July 14, 2020. The issue of the claimant's separation from this employer is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination.

**DECISION:**

The August 28, 2020, reference 04, decision is reversed. The employer has filed a timely protest. The issue of the claimant's separation from this employer is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination.



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Julie Elder  
Administrative Law Judge

October 26, 2020  
Decision Dated and Mailed

je/sam