

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**DOMINIC A WELLIK**  
Claimant

**APPEAL NO. 12A-UI-14746-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**JACKSON BROTHERS OF THE SOUTH LLC**  
Employer

**OC: 03/04/12**  
**Claimant: Respondent (1)**

Iowa Code section 96.6-2 - Timeliness of Protest  
Iowa Code 96.20 – Combined Wage Claim

**STATEMENT OF THE CASE:**

Jackson Brothers of the South, L.L.C., filed a timely appeal from the December 11, 2012, reference 01, decision that found the employer's protest untimely and that held the employer's account could not be relieved of charges in connection with a combined wage claim filed in another state. After due notice was issued, a hearing was held by telephone conference call on February 25, 2013. Claimant Dominic Wellik participated. James Green, Human Resources Director, represented the employer. Department Exhibits D-1 through D-4 were received into evidence.

**ISSUE:**

Whether the employer's protest was timely.

Whether the employer's account may be relieved of charges for benefits paid to the claimant.

**FINDINGS OF FACT:**

Claimant Dominic Wellik established a claim for unemployment insurance benefits in Texas that was effective March 4, 2012. Mr. Wellik had base period wage from Iowa employment that factored into the Texas combined wage claim. The Iowa base period wages included wages

from Jackson Brothers of the South, L.L.C. Mr. Wellik had separated from Jackson Brothers of the South in February 2011.

On March 7, 2012, Workforce Development mailed a Notice of Wage Transfer to Jackson Brothers of the South, L.L.C., at that company's last known address of record. The address of record was 31 International Plaza Court, St. Ann, MO 63074. The Notice of Wage Transfer contained a warning that the employer's response to the Notice of Wage Transfer must be postmarked or received no later than 10 days from the date the notice was mailed to the employer. Hence, the due date for the employer's response would have been March 17, 2012.

In 2012, Jackson Brothers of the South, L.L.C. split with a sister company that was headquartered at 31 International Plaza Court, St. Ann, MO 63074. After the split, Jackson Brothers of the South, L.L.C., was headquartered at 3711 Mexico Road, St. Charles, MO 63303.

Jackson Brothers of the South, L.L.C., did not update its address of record with Iowa Workforce Development until November 2012, and did so only after James Green, Human Resources Manager, received a Quarterly Statement of Charges that Iowa Workforce Development had mailed to the address of record, 31 International Plaza Court, on November 9, 2012. The Quarterly Statement of Charges mailed on November 9, 2012 was actually the *second* Quarterly Statement of Charges that contained a charge for benefits paid to Mr. Wellik. The previous Quarterly Statement of Charges has been mailed to the employer at its address of record on August 9, 2012.

On December 7, 2012, Mr. Green faxed the employer's protest to Iowa Workforce Development. The agency received the protest on that date and deemed it untimely. Mr. Green does not know when his company received the Quarterly Statement of Charges that was mailed on November 9, 2012. Jackson Brothers of the South had only recently begun having correspondence that was directed to the 31 International Plaza Court address forwarded by the United States Postal Service to its actual business location at 3711 Mexico Road. Jackson Brothers of the South had hitherto relied upon its sister company, located at 31 International Plaza Court, to forward correspondence to the Mexico Road address. Jackson Brothers of the South had relied upon the sister company to forward correspondence in lieu of maintaining an updated address of record with Iowa Workforce Development. Mr. Green does not know whether or when the sister company received the Notice of Wage Transfer that was mailed on

March 7, 2012 or the Quarterly Statement of Charges that was mailed on August 9, 2012. Jackson Brothers of the South began having its mail forwarded by the United States Postal Service only after its sister company was sold and the new owner ceased operations at the 31 International Plaza Court address.

**REASONING AND CONCLUSIONS OF LAW:**

Ref 27, 21, 212

The proceedings of all officers and courts of limited and inferior jurisdiction within the state shall be presumed regular". Iowa Code §622.56; *accord City Of Janesville v. McCartney*, 426 N.W.2d 785 (Iowa 1982). Thus there is a presumption, that the Notice of Wage Transfer was mailed to the address of record on March 7, 2012 and that an earlier Quarterly Statement of Charges was mailed to the address of record on August 9, 2012. The employer has failed to present sufficient evidence to rebut that presumption. Indeed, Mr. Green was not even with the employer in March, when the Notice of Wage Transfer was mailed to the employer at its address of record. The weight of the evidence indicates that the employer had proper notice of the Wage Transfer and failed to file a timely protest in response to that notice. The employer's subsequent protest on December 7, 2012, filed almost nine months after it was due, was untimely. The untimeliness of the protest was not attributable to Workforce Development or the United States Postal Service. The untimeliness was instead attributable the employer not maintaining a separate, updated address of record with Iowa Workforce Development and the employer's decision to rely instead on its sister company to forward mail. Having concluded that the protest was untimely, the administrative law judge lacks jurisdiction to disturb the initial determination that the employer's account may be charged for benefits paid to the claimant in on the Texas combined wage claim.

**DECISION:**

The Agency representative's December 11, 2012, reference 01, decision is affirmed. The employer's protest was untimely. The employer's Iowa account may be charged for benefits in connection with the claimant's Texas combined wage claim.

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James E. Timberland  
Administrative Law Judge

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Decision Dated and Mailed

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