

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**YOCAMMA M JONES**  
Claimant

**APPEAL NO. 08A-UI-00353-H2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**DAVENPORT COMMUNITY  
SCHOOL DISTRICT**  
Employer

**OC: 12-16-07 R: 04  
Claimant: Respondent (2-R)**

Iowa Code § 96.6(2) - Timeliness of Protest

**STATEMENT OF THE CASE:**

The employer filed a timely appeal from the January 7, 2008, reference 02, decision that allowed benefits and found the protest untimely. After due notice was issued, a hearing was held on January 28, 2008. The claimant did not participate. The employer did participate through Virginia Weipert, Associate Director of Human Resources. Department's Exhibit D-1 was received.

**ISSUE:**

The issue is whether employer has filed a timely notice of protest.

**FINDINGS OF FACT:**

Having reviewed all of 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 December 20, 2007. The employer closed down from December 22, 2007 through January 2, 2008 for a holiday break and mail is not delivered. The employer could not have received the notice of claim form in time to provide a response before December 31. The employer did not receive notice of claim form until after the deadline had already passed. The employer did file its protest on January 2, 2008, the day they received the notice of claim form in the mail.

**REASONING AND CONCLUSIONS OF LAW:**

Iowa Code § 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 the employer filed a notice of protest

the day they actually received the mail. No mail was delivered to the employer between December 22 and January 2, 2008, thus they had no opportunity to file a notice of protest until January 2. This is sufficient evidence of intent to protest any potential charges to their account.

**REMAND:**

The separation issue not yet dealt with is remanded for an initial review and determination.

**DECISION:**

The January 7, 2008, reference 02, decision is reversed. The employer has filed a timely protest.

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Teresa K. Hillary  
Administrative Law Judge

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Decision Dated and Mailed

tkh/pjs