

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

RENNY J MCCARTY
Claimant

APPEAL NO: 20A-UI-01109-JE-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

WARNING ENTERPRISES LLC
Employer

OC: 01/12/20
Claimant: Respondent (4)

Section 96.6-2 - Timeliness of Protest
Section 96.5 – Requalification for Benefits

STATEMENT OF THE CASE:

The employer/appellant filed a timely appeal from the January 30, 2020, reference 04, decision that concluded it failed to file a timely protest regarding the claimant's separation of employment on January 18, 2019, and no disqualification of unemployment insurance benefits was imposed. After due notice was issued, a hearing was scheduled on February 21, 2020, before Administrative Law Judge Julie Elder. The claimant did not respond to the hearing notice and did not participate in the hearing. Brian Warning, Owner, participated in the hearing on behalf of the employer.

ISSUE:

The issue is whether the employer's protest is timely and whether the claimant has requalified for benefits.

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 January 15, 2020, with a due date of January 25, 2020. That date fell on a Saturday so the appeal was due January 27, 2020. The employer did file a protest on January 28, 2020, after it received its mail in its post office box. The claimant has requalified for benefits since his separation from this employer.

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 did reply to the notice of claim when it received it. This is sufficient evidence of intent to protest any potential charges to its account. 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 this employer shall not be charged.

DECISION:

The January 30, 2020, reference 04, 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 this employer shall not be charged.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/scn