

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JACOB H BUHLER
Claimant

ARROW ELECTRIC
Employer

APPEAL 17A-UI-00540-CL-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 02/21/16
Claimant: Respondent (2R)

Iowa Code § 96.6(2) – Timeliness of Protest

STATEMENT OF THE CASE:

Employer filed an appeal from the January 12, 2017, (reference 02) decision that found the protest untimely and allowed benefits. After due notice was issued, a hearing was held by telephone conference call on February 7, 2017. The claimant did not participate. The employer participated by executive assistant/payroll/APAR specialist Rachel Howes. The administrative law judge took official notice of the administrative record, including the Notice of Claim and protest.

ISSUE:

Is the employer's protest timely?

FINDINGS OF FACT:

Having reviewed the evidence in the record, the administrative law judge finds: Claimant's notice of claim was mailed to employer's address of record on December 26, 2016, and was received by employer on January 3, 2017. The notice of claim contains a warning that any protest must be postmarked, faxed or returned by January 3, 2017. The employer completed the protest and deposited it in the mail box at the local post office on the same day it received the notice of claim. However, the envelope was not postmarked until January 5, 2017.

REASONING AND CONCLUSIONS OF LAW:

The first issue is whether employer's protest is timely. The administrative law judge concludes it is.

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 employer did not have an opportunity to protest the notice of claim because the notice was not received in a timely fashion. Without timely notice of a disqualification, no meaningful opportunity for appeal exists. See *Smith v. Iowa Emp't Sec. Comm'n*, 212 N.W.2d 471, 472 (Iowa 1973). The employer filed the protest within two days of receipt of the notice of claim. Therefore, the protest shall be accepted as timely.

DECISION:

The January 12, 2017, (reference 02) unemployment insurance decision is reversed. The employer filed a timely protest.

REMAND: The separation issue is remanded to the Benefits Bureau of Iowa Workforce Development for a fact-finding interview and unemployment insurance decision.

Christine A. Louis
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
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Decision Dated and Mailed

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