

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

LISA M RAMIREZ
Claimant

APPEAL 17A-UI-00546-CL-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

PET VET INTERNATIONAL INC
Employer

**OC: 06/12/16
Claimant: Respondent (2R)**

Iowa Code § 96.6(2) – Timeliness of Protest

STATEMENT OF THE CASE:

The employer filed an appeal from the January 9, 2017, (reference 05) unemployment insurance decision that allowed benefits based upon an untimely protest. The parties were properly notified about the hearing. A telephone hearing was held on February 7, 2017. Claimant participated. Employer participated through Cheryl Zimmerman and office manager Rosemary Zimmerman. 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 all of 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 12, 2016. The notice of claim contains a warning that the employer protest response is due ten days from the initial notice date and gave a response deadline of December 22, 2016. Employer was open the morning of Friday, December 23, 2016, and had not yet received the Notice of Claim. Employer received the notice in the mail on Saturday, December 24, 2016. When employer opened for business on Monday, December 26, 2016, it saw the Notice of Claim for the first time. Employer returned the notice of claim via fax the next day, December 27, 2016.

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 three days of receipt of the notice of claim. Therefore, the protest shall be accepted as timely.

DECISION:

The January 9, 2017, (reference 05) 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
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Decision Dated and Mailed

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