

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CHARISH A MINARD
Claimant

APPEAL NO. 09A-UI-15599-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

BURLINGTON ASSISTED LIVING
Employer

OC: 09/20/09
Claimant: Respondent (2-R)

Section 96.6-2 – Timeliness of Protest

STATEMENT OF THE CASE:

The employer, Burlington Assisted Living, filed an appeal from a decision dated October 12, 2009, reference 03. The decision found the employer's protest was not timely. After due notice was issued, a hearing was held by telephone conference call on November 18, 2009. The claimant participated on her own behalf. The employer participated by Director Suzanne Lunsford. Exhibit D-1 was admitted into the record.

ISSUE:

The issue is whether the protest is timely.

FINDINGS OF FACT:

Claimant's notice of claim was mailed to employer's address of record on September 15, 2009, and received by employer on October 6, 2009, the day after it was due. Employer filed a protest October 7, 2009, which is one day after the notice was received.

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 employer filed the protest the day after the United States Postal Service delivered it. The response time was appropriate and the protest shall be accepted as timely.

DECISION:

The representative's decision dated October 12, 2009, reference 03, is reversed. The employer's protest shall be accepted as timely.

The issue of the claimant's separation is remanded to UIS division for determination.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/css