

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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**TYLER D SCHMIDT**  
Claimant

**APPEAL NO. 22A-UI-01328-DG-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**LYNNDALE ENTERPRISES INC**  
Employer

**OC: 11/21/21  
Claimant: Respondent (4-R)**

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Iowa Code § 96.6(2) - Timeliness of Protest

**STATEMENT OF THE CASE:**

The employer filed a timely appeal from the December 10, 2021, (reference 01) unemployment insurance decision that allowed benefits and found the protest untimely. After due notice was issued, a hearing was held on February 7, 2022. Claimant did not participate. Employer participated through Lori Miller, Book Keeper. Department's Exhibit D-1 was received. 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: The claimant's notice of claim was mailed to the employer's address of record on November 24, 2021. The employer filed its protest on December 6, 2021. The claimant's separation from employment has not yet been the subject of a Benefits Bureau fact-finding interview.

**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.


Simply because the fax was transmitted after business hours on the due date does not render it received the following day. Since correspondence postmarked on the due date is considered received when postmarked even though it was not actually received on the due date; likewise, a fax transmitted on the due date but after business hours is considered received when faxed.

The administrative law judge concludes that the employer filed its protest within the time period prescribed by the Iowa Employment Security Law.

**DECISION:**

The December 10, 2021, (reference 01) unemployment insurance decision is amended in favor of the appellant. The employer has 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.

A handwritten signature in blue ink that reads "Duane L. Golden". The signature is written in a cursive style and is positioned above a horizontal line.

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Duane L. Golden  
Administrative Law Judge

February 25, 2022  
Decision Dated and Mailed

dlg/scn