

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

ZACHARY R KIEFER
Claimant

FOUR SEASONS CONSTRUCTION INC
Employer

APPEAL NO. 20A-UI-15337-DG-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/29/20
Claimant: Respondent (4R)

Iowa Code § 96.6(2) - Timeliness of Protest

STATEMENT OF THE CASE:

The employer filed a timely appeal from the November 9, 2020, (reference 04) unemployment insurance decision that allowed benefits and found the protest untimely. After due notice was issued, a hearing was held on January 20, 2021. Claimant participated. Employer participated through Tracy Dickey, Vice President. Exhibit 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 April 1, 2020. The employer filed its protest on April 10, 2020. The claimant's December 19, 2019, 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.

The employer filed a protest in a timely manner on April 10, 2020, but the agency did not receive the fax transmission. Immediately upon receipt of information to that effect, the protest was re-filed. Therefore, the protest shall be accepted as timely.

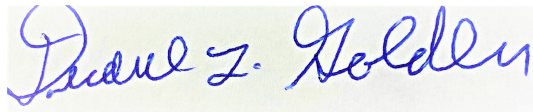
The administrative law judge concludes that the employer filed its protest within the time period prescribed by the Iowa Employment Security Law because it did initially reply to the notice of

claim on April 10, 2020. This is sufficient evidence of intent to protest any potential charges to its account. The issue of the claimant's separation is remanded to Benefits Bureau of Iowa Workforce Development for an initial investigation and determination.

DECISION:

The November 9, 2020, (reference 04) unemployment insurance decision is modified 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.



Duane L. Golden
Administrative Law Judge

February 11, 2021
Decision Dated and Mailed

dlg/kmj