

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ZACHARY R MOULDS
Claimant

QUINTONS OF CORALVILLE LLC
Employer

APPEAL 22A-UI-04428-DZ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 12/26/21
Claimant: Respondent (2R)**

Iowa Code § 96.6(2) – Timeliness of Protest

STATEMENT OF THE CASE:

Quintons of Coralville LLC, the employer/appellant, filed an appeal from the February 1, 2022, (reference 01) unemployment insurance decision that allowed benefits because the employer's protest was not filed on time. The parties were properly notified of the hearing. A telephone hearing was held on March 22, 2022. The employer participated through Brian Rorris, managing partner. Mr. Moulds did not participate in the hearing. The administrative law judge took official notice of the administrative record. Department's Exhibit 1 was admitted as evidence.

ISSUES:

Is the employer's protest filed on time?

FINDINGS OF FACT:

Having reviewed the evidence in the record, the administrative law judge finds: Mr. Mould's notice of claim was mailed to employer's correct address on December 30, 2021. The notice of claim contains a warning that the employer's protest response is due ten days from the initial notice date and gave a due date of January 10, 2022. In the paragraph directly above the checkbox for "I am NOT protesting this claim" the notice instructs employers as follows: "[p]rotests forms submitted to Iowa Workforce Development must be postmarked or faxed by the due date shown above."

The employer received the notice. The employer completed the notice, signed it, and dated it January 10, 2022. Department's Exhibit 1. The employer mailed the notice to IWD that same day. IWD received the notice on January 11, 2022. *Id.*

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the employer's protest of the December 30, 2021 notice was filed on time.

Iowa Code § 96.6(2) provides, in pertinent part: “[u]nless the claimant or other interested party, after notification or within ten calendar days after notification was mailed to the claimant's last known address, files an appeal from the decision, the decision is final and benefits shall be paid or denied in accordance with the decision.”

Iowa Admin. Code r. 871-24.35(1) provides:

1. Except as otherwise provided by statute or by division rule, any payment, appeal, application, request, notice, objection, petition, report or other information or document submitted to the division shall be considered received by and filed with the division:

(a) If transmitted via the United States Postal Service on the date it is mailed as shown by the postmark, or in the absence of a postmark the postage meter mark of the envelope in which it is received; or if not postmarked or postage meter marked or if the mark is illegible, on the date entered on the document as the date of completion.

(b) If transmitted via the State Identification Data Exchange System (SIDES), maintained by the United States Department of Labor, on the date it was submitted to SIDES.

(c) If transmitted by any means other than [United States Postal Service or the State Identification Data Exchange System (SIDES)], on the date it is received by the division.

Iowa Admin. Code r. 871-24.35(2) provides:

2. The submission of any payment, appeal, application, request, notice, objection, petition, report or other information or document not within the specified statutory or regulatory period shall be considered timely if it is established to the satisfaction of the division that the delay in submission was due to division error or misinformation or to delay or other action of the United States postal service.

The Iowa Supreme Court has declared that there is a mandatory duty to file appeals from representatives' decisions within the time allotted by statute, and that the administrative law judge has no authority to change the decision of a representative if a timely appeal is not filed. *Franklin v. IDJS*, 277 N.W.2d 877, 881 (Iowa 1979). Compliance with appeal notice provisions is jurisdictional unless the facts of a case show that the notice was invalid. *Beardslee v. IDJS*, 276 N.W.2d 373, 377 (Iowa 1979); see also *In re Appeal of Elliott* 319 N.W.2d 244, 247 (Iowa 1982).

In this case, the employer submitted its protest via mail on January 10, 2022. The employer followed the instructions on the Notice of Claim. The employer's protest was filed on time.

DECISION:

The employer's protest of the December 30, 2021 notice was filed on time. The February 1, 2022, (reference 01) decision is REVERSED.

REMAND:

The issue of Mr. Moulds' separation from employment with this employer is REMANDED (sent back) to the Benefits Bureau of Iowa Workforce Development for investigation and a decision.



Daniel Zeno
Administrative Law Judge
Iowa Workforce Development
Unemployment Insurance Appeals Bureau
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Des Moines, Iowa 50319-0209
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March 31, 2022

Decision Dated and Mailed

dz/kmj