

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**DUSTIN R PIERCE**  
Claimant

**APPEAL NO. 09A-UI-00656-H2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**COMPREHENSIVE SYSTEMS INC**  
Employer

**OC: 11-30-08 R: 02  
Claimant: Respondent (4)**

Iowa Code § 96.6(2) – Timeliness of Protest  
Iowa Code Chapter 95 – Requalification

**STATEMENT OF THE CASE:**

The employer filed a timely appeal from the January 9, 2009, reference 02, decision that allowed benefits and found the protest untimely. After due notice was issued, a hearing was held by telephone conference call on February 2, 2009. The claimant did participate. The employer did participate through (representative) Sheryl Heyenga, Program Director Becky Orcutt, Unit Manager. Department's Exhibit D-1 was received.

**ISSUE:**

The issue is whether employer's protest is timely.

**FINDINGS OF FACT:**

Having reviewed 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 December 2, 2008. The employer did protest on December 31, 2008. The claimant has requalified for benefits since the separation from the employer. The employer is unsure of when the notice of claim form was actually received by them, but it was misdirected in their office and not received by Ms. Heyenga until December 31 at which time she promptly filed the notice of protest.

**REASONING AND CONCLUSIONS OF LAW:**

Iowa Code § 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 administrative law judge concludes that the employer filed its protest within the time period prescribed by the Iowa Employment Security Law because it was not received by Ms. Heyenga in time to file a timely protest. There is no evidence that it was actually received by the

employer in time to file a timely notice of protest. This is sufficient evidence of intent to protest any potential charges to their account. The administrative law judge further concludes that the claimant has requalified for benefits since the separation from this employer. Accordingly, benefits are allowed and the account of the employer shall not be charged.

**DECISION:**

The January 9, 2009, reference 02, decision is modified in favor of the appellant. The employer has filed a timely protest, and the claimant has requalified for benefits since the separation. Benefits are allowed, provided the claimant is otherwise eligible. The account of the employer shall not be charged.

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Teresa K. Hillary  
Administrative Law Judge

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Decision Dated and Mailed

tkh/pjs