

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JENIFER L COOPER**  
Claimant

**APPEAL NO. 08A-UI-05040-LT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**BOY SCOUTS OF AMERICA  
WINNEBAGO COUNCIL NO 173**  
Employer

**OC: 04/20/08 R: 03  
Claimant: Respondent (4)**

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

**STATEMENT OF THE CASE:**

The employer filed a timely appeal from the May 20, 2008, reference 03, decision that allowed benefits and found the protest untimely without having held a fact-finding interview pursuant to 871 IAC 24.9(2)b. After due notice was issued, a hearing was held by telephone conference call on July 2, 2008. The claimant did not participate. The employer participated through Todd Wordel.

**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 May 1, 2008 and received on or before May 9, 2008. The employer filed its protest on May 9, 2008. While there was a stamp on the face of the document indicating the letter had been postmarked May 15, there is no evidence of the postmarked envelope in the administrative record. Therefore, employer's certification indicating the protest was completed on May 9 is accepted as the mailing date as well. The claimant has requalified for benefits since the separation from the employer.

**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 employer filed the protest on May 9, prior to the May 12 deadline. Therefore, the protest shall be accepted as timely.

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 May 20, 2008, reference 03, 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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Dévon M. Lewis  
Administrative Law Judge

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Decision Dated and Mailed

dml/kjw