

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DON TIESKOTTER

Claimant

APPEAL NO. 06A-UI-10833-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CHARLES CITY COMM SCHOOL DIST

Employer

**OC: 12/25/06 R: 02
Claimant: Respondent (2/R)**

Section 96.6-2 - Timeliness of Protest

STATEMENT OF THE CASE:

Charles City Community School District (employer) appealed an unemployment insurance decision dated November 6, 2006, reference 01, which held it failed to file a timely protest regarding the claimant's separation of employment on May 1, 2005 and no disqualification of unemployment insurance benefits was imposed. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on November 28, 2006. The claimant elected not to participate. The employer participated through Terri O'Brien, Business Manager. Exhibit D-1 was admitted into evidence. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

The issue is whether the employer's protest in this matter was timely?

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant's notice of claim was mailed to the employer's address of record on December 28, 2005. The employer received the notice. The employer filed its protest on January 3, 2006.

The issues regarding the claimant's separation from employment have not yet been investigated or adjudicated at the claims level.

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 received the original notice of claim and filed a protest on January 3, 2006, which was within ten days of when the notice was mailed. The Administrative Law Judge concludes the protest shall be accepted as timely.

The issue of the separation is remanded to the Claims Section of Iowa Workforce Development for an initial investigation and determination.

DECISION:

The employer's protest is timely. The unemployment insurance decision dated November 6, 2006, reference 01, is reversed. The separation issued delineated in the findings of fact is remanded to the Claims Section of Iowa Workforce Development for an initial investigation and determination.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/css