

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

DELIJAH J WHOOPER
Claimant

QPS EMPLOYMENT GROUP, INC.
Employer

**APPEAL 21A-UI-01037-AW-T
ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 04/28/19
Claimant: Respondent (2R)**

Iowa Code § 96.6(2) – Timeliness of Protest

STATEMENT OF THE CASE:

Employer filed an appeal from the December 9, 2020 (reference 03) unemployment insurance decision that found employer's protest untimely. The parties were properly notified of the hearing. A telephone hearing was held on February 15, 2021, at 1:00 p.m. Claimant did not participate. Employer participated through Mai Lor, Unemployment Insurance Specialist, and Alexis Adams, Branch Manager. Employer's Exhibit 1 was admitted. Official notice was taken of the administrative record.

ISSUE:

Whether employer filed a timely protest.

FINDINGS OF FACT:

Having reviewed the evidence in the record, the administrative law judge finds: The Notice of Claim was sent to employer via State Information Data Exchange System (SIDES) on May 5, 2020. Employer submitted its response on May 10, 2019.

Claimant returned to work on July 8, 2019 and voluntarily quit July 22, 2019. Employer notified Iowa Workforce Development of the separation on July 26, 2019, by submitting a Notice of Separation form. (Exhibit 1) The issue of separation has not been the subject of an initial investigation or decision.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that employer's protest was timely.

Iowa Code § 96.6(2) provides:

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.

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 on 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.

Employer responded to the Notice of Claim within ten days. Employer's response was timely. Employer also promptly notified Iowa Workforce Development of claimant's separation from employment. The issue of separation should be remanded for an initial investigation and decision.

DECISION:

The December 9, 2020 (reference 03) unemployment insurance decision is reversed. Employer's protest was timely.

REMAND:

The separation issue is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and decision.



Adrienne C. Williamson
Administrative Law Judge
Unemployment Insurance Appeals Bureau
Iowa Workforce Development
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Fax (515)478-3528

March 2, 2021
Decision Dated and Mailed

acw/lj