

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MICHAEL J THOMAS**  
Claimant

**APPEAL NO. 08A-UI-01607-CT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**GADBURY TEMPORARY  
EMPLOYMENT INC**  
Employer

**OC: 01/20/08 R: 01  
Claimant: Respondent (2-R)**

Section 96.6(2) – Timelines of Protests

**STATEMENT OF THE CASE:**

Gadbury Temporary Employment, Inc. (Gadbury) filed an appeal from a representative's decision dated February 7, 2008, reference 03, which held that the protest to Michael Thomas' claim was not filed timely. After due notice was issued, a hearing was held by telephone on March 3, 2008. The employer participated by Dyanna Cowden, Office Manager. Mr. Thomas did not respond to the notice of hearing.

**ISSUE:**

At issue in the matter is whether the employer's protest to Mr. Thomas' claim should be considered timely filed.

**FINDINGS OF FACT:**

Having heard the testimony of the witness and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Thomas filed a claim for job insurance benefits effective January 20, 2008. Notice of the claim was mailed to the employer at its address of record on January 25. The notice advised that any protest to the claim had to be filed by February 4, 2008. The employer's office was closed on February 4 due to weather conditions. There was no one present in the office to return the protest by the designated due date. The protest was faxed to Workforce Development on February 5, 2008.

**REASONING AND CONCLUSIONS OF LAW:**

The employer had ten days from January 25, 2008 to perfect its protest to Mr. Thomas' claim. See Iowa Code section 96.6(2). It appears that the employer intended to file the protest on the last available day, February 4. However, weather conditions prevented a timely response, as no one was able to get to the office that day. Because the delay was due to circumstances beyond the employer's control and because the protest was submitted the next day, it shall be considered timely filed.

For the reasons stated herein, the administrative law judge concludes that Workforce Development has jurisdiction over the issue of Mr. Thomas' separation from Gadbury. Therefore, this matter shall be remanded to Claims to issue a determination regarding the separation.

**DECISION:**

The representative's decision dated February 7, 2008, reference 03, is hereby reversed. Gadbury filed a timely protest to Mr. Thomas' claim. This matter is remanded to Claims to adjudicate the separation issue.

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Carolyn F. Coleman  
Administrative Law Judge

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Decision Dated and Mailed

cfc/kjw