

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**BENJAMIN ROOKER**  
Claimant

**THE WORKSOURCE INC**  
Employer

**APPEAL 18A-UI-10294-CL-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 09/16/18**  
**Claimant: Respondent (4)**

Iowa Code Chapter 96 – Requalification  
Iowa Code § 96.6(2) – Timeliness of Protest

**STATEMENT OF THE CASE:**

The employer filed a timely appeal from the October 3, 2018, (reference 08) unemployment insurance decision that allowed benefits and found the protest untimely. No hearing was scheduled or held as there was sufficient evidence in the administrative record, appeal letter and accompanying documents to resolve the matter without testimony.

**ISSUES:**

Is the employer's protest timely?  
Has the claimant requalified for benefits since the separation from this employer?

**FINDINGS OF FACT:**

Having reviewed the evidence in the record, the administrative law judge finds: A notice of claim was mailed to employer on September 18, 2018. Employer faxed a response on September 28, 2018, at 5:17 p.m. The claimant has requalified for benefits since the separation from the employer.

**REASONING AND CONCLUSIONS OF LAW:**

The first issue is whether employer's protest is timely. The administrative law judge concludes it is.

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 administrative law judge concludes the employer filed its protest within the time period prescribed by the Iowa Employment Security Law because it filed the protest on the date it was due. Agency rules state that a faxed protest is received "on the date it is received by the division." Iowa Admin. r. 871-24.35(1)(c). There is no limitation to office hours in the rules. Therefore, employer submitted its protest within the ten-day deadline and it should be considered timely.

Based on the evidence, the Appeals Bureau has legal jurisdiction to determine whether the employer's account can be relieved from charges. 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 October 3, 2018, (reference 08) unemployment insurance 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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Decision Dated and Mailed

cal/scn