

**IOWA DEPARTMENT OF INSPECTIONS AND APPEALS
ADMINISTRATIVE HEARINGS DIVISION, UI APPEALS BUREAU**

ABEGEAL M HELMICK
Claimant

APPEAL 23A-UI-01364-LJ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

PLD MANAGEMENT CORP
Employer

**OC: 12/05/21
Claimant: Respondent (2-R)**

Iowa Code § 96.6(2) – Timeliness of Protest

STATEMENT OF THE CASE:

On February 10, 2023, employer PLD Management Corp. filed an appeal from the February 3, 2023, (reference 05) unemployment insurance decision that found the protest untimely and allowed benefits. After due notice was issued, a hearing was scheduled for a telephone conference call at 2:00 p.m. on Monday, February 27, 2023. However, the administrative record, including the Notice of Claim and Statement of Protest, contained sufficient information that the administrative law judge was able to render a decision without holding a hearing.

ISSUE:

Is the employer's protest timely?

FINDINGS OF FACT:

Having reviewed the evidence in the record, the administrative law judge finds: Claimant's Notice of Claim was mailed to employer's address of record on December 16, 2021, and it was received by employer within ten days. The notice of claim contains a warning that the employer protest response is due ten days from the initial notice date and gave a response deadline of December 27, 2021. The employer filed its protest on December 23, 2021.

REASONING AND CONCLUSIONS OF LAW:

The sole 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:

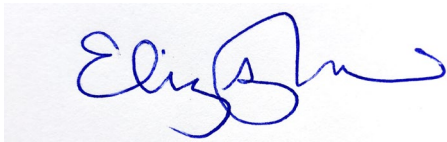
2. Initial determination. A representative designated by the director shall promptly notify all interested parties to the claim of its filing, and the parties have ten days from the date of mailing the notice of the filing of the claim by ordinary mail to the last known address to protest payment of benefits to the claimant.

The employer filed a protest in a timely manner on December 23, 2021 but the agency did not receive the fax transmission. The employer evidently did not know the agency did not receive their fax until it received information pertaining to a tax rate increase. At that time, the employer promptly appealed and provided the completed fax transmission information. Therefore, the protest shall be accepted as timely.

DECISION:

The February 3, 2023, (reference 05) unemployment insurance decision is reversed. The employer filed a timely protest.

REMAND: The separation issue is remanded to the Benefits Bureau of Iowa Workforce Development for a fact-finding interview and unemployment insurance decision.

A handwritten signature in blue ink, appearing to read "Elizabeth Johnson", is written over a light blue horizontal line.

Elizabeth A. Johnson
Administrative Law Judge

March 1, 2023
Decision Dated and Mailed

scn

APPEAL RIGHTS. If you disagree with the decision, you or any interested party may:

1. Appeal to the Employment Appeal Board within fifteen (15) days of the date under the judge's signature by submitting a written appeal via mail, fax, or online to:

**Employment Appeal Board
4th Floor – Lucas Building
Des Moines, Iowa 50319
Fax: (515)281-7191
Online: eab.iowa.gov**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

AN APPEAL TO THE BOARD SHALL STATE CLEARLY:

- 1) The name, address, and social security number of the claimant.
- 2) A reference to the decision from which the appeal is taken.
- 3) That an appeal from such decision is being made and such appeal is signed.
- 4) The grounds upon which such appeal is based.

An Employment Appeal Board decision is final agency action. If a party disagrees with the Employment Appeal Board decision, they may then file a petition for judicial review in district court.

2. If no one files an appeal of the judge's decision with the Employment Appeal Board within fifteen (15) days, the decision becomes final agency action, and you have the option to file a petition for judicial review in District Court within thirty (30) days after the decision becomes final. Additional information on how to file a petition can be found at Iowa Code §17A.19, which is online at <https://www.legis.iowa.gov/docs/code/17A.19.pdf> or by contacting the District Court Clerk of Court <https://www.iowacourts.gov/iowa-courts/court-directory/>.

Note to Parties: YOU MAY REPRESENT yourself in the appeal or obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds.

Note to Claimant: It is important that you file your weekly claim as directed, while this appeal is pending, to protect your continuing right to benefits.

SERVICE INFORMATION:

A true and correct copy of this decision was mailed to each of the parties listed.

DERECHOS DE APELACIÓN. Si no está de acuerdo con la decisión, usted o cualquier parte interesada puede:

1. Apelar a la Junta de Apelaciones de Empleo dentro de los quince (15) días de la fecha bajo la firma del juez presentando una apelación por escrito por correo, fax o en línea a:

**Employment Appeal Board
4th Floor – Lucas Building
Des Moines, Iowa 50319
Fax: (515)281-7191
En línea: eab.iowa.gov**

El período de apelación se extenderá hasta el siguiente día hábil si el último día para apelar cae en fin de semana o día feriado legal.

UNA APELACIÓN A LA JUNTA DEBE ESTABLECER CLARAMENTE:

- 1) El nombre, dirección y número de seguro social del reclamante.
- 2) Una referencia a la decisión de la que se toma la apelación.
- 3) Que se interponga recurso de apelación contra tal decisión y se firme dicho recurso.
- 4) Los fundamentos en que se funda dicho recurso.

Una decisión de la Junta de Apelaciones de Empleo es una acción final de la agencia. Si una de las partes no está de acuerdo con la decisión de la Junta de Apelación de Empleo, puede presentar una petición de revisión judicial en el tribunal de distrito.

2. Si nadie presenta una apelación de la decisión del juez ante la Junta de Apelaciones Laborales dentro de los quince (15) días, la decisión se convierte en acción final de la agencia y usted tiene la opción de presentar una petición de revisión judicial en el Tribunal de Distrito dentro de los treinta (30) días después de que la decisión adquiera firmeza. Puede encontrar información adicional sobre cómo presentar una petición en el Código de Iowa §17A.19, que se encuentra en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf> o comunicándose con el Tribunal de Distrito Secretario del tribunal <https://www.iowacourts.gov/iowa-courts/court-directory/>.

Nota para las partes: USTED PUEDE REPRESENTARSE en la apelación u obtener un abogado u otra parte interesada para que lo haga, siempre que no haya gastos para Workforce Development. Si desea ser representado por un abogado, puede obtener los servicios de un abogado privado o uno cuyos servicios se paguen con fondos públicos.

Nota para el reclamante: es importante que presente su reclamo semanal según las instrucciones, mientras esta apelación está pendiente, para proteger su derecho continuo a los beneficios.

SERVICIO DE INFORMACIÓN:

Se envió por correo una copia fiel y correcta de esta decisión a cada una de las partes enumeradas.