

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MATTHEW T MCCOLE**  
Claimant

**APPEAL NO. 17A-UI-04957-TN-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**COLLIS INC**  
Employer

**OC: 04/09/17**  
**Claimant: Respondent (1)**

Section 96.6(2) – Timeliness of Protests

**STATEMENT OF THE CASE:**

Collis Inc., the employer filed a timely appeal from a representative's decision dated May 1, 2017, reference 01, which held that the protest concerning Matthew T. McCole's separation on March 31, 2017 was not timely filed. After due notice was issued, a hearing was held by telephone on May 26, 2017. Claimant participated. Employer participated by Ms. Alexis Kibler, Human Resource Generalist.

**ISSUE:**

At issue in this matter is whether the employer filed a timely protest as required by law.

**FINDINGS OF FACT:**

The administrative law judge, having 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 April 13, 2017, and received by the employer within ten days. The notice of claim contains a warning that any protest must be postmarked or returned not later than ten days from the initial mailing date. The employer did not effect a protest until April 27, 2017, which is after the ten-day period had expired. The notice of claim filed was mailed to the employer's address of record, but was not forwarded by the employer to the proper work location until April 24, 2017. The employer's protest was further delayed due to issues with the company's internet and fax capabilities.

**REASONING AND CONCLUSIONS OF LAW:**

Iowa Code § 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 failed to effect a timely protest within the time period prescribed by the Iowa Employment Security Law, and the delay was not due to any

Agency error or misinformation or delay or other action of the United States Postal Service pursuant to 871 IAC 24.35(2). The administrative law judge further concludes that the employer has failed to effect a timely protest pursuant to Iowa Code section 96.6-2, and the administrative law judge lacks jurisdiction to make a determination with respect to the nature of the claimant's termination of employment. See *Beardslee v. IDJS*, 276 N.W.2d 373 (Iowa 1979); *Franklin v. IDJS*, 277 N.W.2d 877 (Iowa 1979) and *Pepsi-Cola Bottling Company v. Employment Appeal Board*, 465 N.W.2d 674 (Iowa App. 1990).

**DECISION:**

The decision of the representative dated May 1, 2017, reference 01, is affirmed. The employer has failed to file a timely protest, and the decision of the representative shall stand and remain in full force and effect. Benefits are allowed, provided Matthew T. McCole satisfies all other conditions of eligibility.

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Terry P. Nice  
Administrative Law Judge

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Decision Dated and Mailed

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