

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**BETH A DOYLE THOMAS**  
Claimant

**APPEAL NO. 17A-UI-06839-TNT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**SECUREALERT INC**  
Employer

**OC: 10/02/16**  
**Claimant: Respondent (1)**

Section 96.6(2) – Timeliness of Protests

**STATEMENT OF THE CASE:**

Securealert, Inc., the employer, filed a timely appeal from the June 29, 2017, (ref 04) decision that allowed benefits to the claimant, Beth A. Doyle Thomas, and found the employer's protest untimely. After due notice was issued, a hearing was held by telephone on July 21, 2017. The claimant participated. Participating on behalf of the claimant was Mr. Mike Heilman, Attorney at Law. The employer participated through Ms. Norma Smith, Human Resource Director.

**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: a notice that an unemployment claim had been filed by the claimant was sent to the employer's address of record, namely 405 S. Main St, Ste 700, Salt Lake City, UT 84111 on October 4, 2016. The notice was received by the employer at his address of record by the US Postal Service. 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 May 17, 2017, which is after the ten-day period had expired.

On January 1, 2017, the employer relocated its business to 1215 W Lakeview Court, Romeoville, IL 60446. The company also went under a reorganization and name change to "Track Group". In May 2017, Ms. Smith, the company's new Human Resource Director discovered the notice of claim filed while reviewing company records and filed a protest at that time. The company also made a request at that time, to change the address of record. (The decision in this case will be sent to the 1215 W. Lakeview Court, Romeoville, IL 60446 address for the purposes of the appeal in this matter only. The company is advised to initiate an official change of address of record by making application for the change to the Tax Department of Iowa Workforce Development.) No good cause reason has been established for the delay in finding the protest. The notice was mailed to the employer's address of record as of the mailing date, and the company had made no change in the address of record.

**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. The notice of claim filed was mailed to the employer's address of record that was in effect with Iowa Workforce Development on the date of mailing of October 4, 2016.

Although the evidence in the record establishes that the employer later relocated to a different business address, the change did not take place until well after the notice of claim had been sent to the Utah address that remained the address of record for official correspondence as of the date the notice of claim was mailed to the employer. The administrative law judge notes that as of the time of hearing, the employer had not effected a change in its official address of record or make an application to Iowa Workforce Development Tax Department.

The evidence establishes the employer failed to protest within a time period prescribed by the Iowa Employment Security Law. 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 June 29, 2017, reference 04, 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 Beth A. Doyle Thomas satisfies all other conditions of eligibility.

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Terry P. Nice  
Administrative Law Judge

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Decision Dated and Mailed

tn/scn