

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**AARON BREES**

Claimant

**APPEAL NO: 16A-UI-09853-JE-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**DECK RESTORATIONS LLC**

Employer

**OC: 08/14/16**

**Claimant: Respondent (2-R)**

Section 96.6-2 - Timeliness of Protest

**STATEMENT OF THE CASE:**

The employer appealed from the September 7, 2016, reference 02, decision that concluded it failed to file a timely protest regarding the claimant's separation of employment on August 12, 2016, and no disqualification of unemployment insurance benefits was imposed. A hearing was scheduled and held on September 27, 2016, pursuant to due notice. The claimant did not respond to the hearing notice and did not participate in the hearing or request a postponement of the hearing as required by the hearing notice. Greg Crawford, Owner and Jonathan Branderhorst, Job Manager, participated in the hearing on behalf of the employer. Department's Exhibit D-1 was admitted into evidence.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant's notice of claim was mailed to the employer's address of record on August 15, 2016. The protest was due August 25, 2016. The employer attempted to file its protest using the SIDES form online the evening of August 24, 2016, but the system would not take the employer's protest. The employer called the Department August 25, 2016, and a representative stated she would make a notation that the employer tried to file its protest and send the employer an email regarding how to send in his protest online using the SIDES system. The representative did not send the employer the email for several days and when the employer received the email it filed its protest online September 1, 2016. There are issues regarding the claimant's separation from this employer that have not yet been investigated or adjudicated at the claims level.

**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 that the employer filed its protest within the time period prescribed by the Iowa Employment Security Law because it attempted to file its protest prior to the due date and when it experienced technical difficulty and called the Department it was given incorrect advice. The employer did file its protest when it received the email promised by the representative instructing it how to overcome the problem with filing the SIDES form online. Under these circumstances, the administrative law judge finds the employer's protest is timely.

The issue of the claimant's separation from this employer is remanded to the Claims Section of Iowa Workforce Development for an initial investigation and determination.

**DECISION:**

The September 7, 2016, reference 02, decision is reversed. The employer has filed a timely protest. The issue of the claimant's separation from this employer is remanded to the Claims Section of Iowa Workforce Development for an initial investigation and determination.

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Julie Elder  
Administrative Law Judge

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Decision Dated and Mailed

je/pjs