

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

LINDA A SCHRADER
Claimant

APPEAL 15A-UI-05799-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

PACKERS SANITATION SERVICES INC
Employer

**OC: 04/12/15
Claimant: Respondent (2R)**

Iowa Code § 96.6-2 – Timeliness of Protest

STATEMENT OF THE CASE:

The employer filed an appeal from the May 4, 2015, (reference 01) unemployment insurance decision that allowed benefits after finding the claimant's notice of protest untimely. The parties were properly notified about the hearing. A telephone hearing was held on June 24, 2015. Claimant participated. Employer participated through Eric Jackson, Assistant Site Manager. Employer's Exhibit One was entered and received into the record.

ISSUE:

Did the employer file a timely notice of protest?

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 April 20, 2015 and was received on May 1, 2015 after the date the notice of protest was due on April 30, 2015. The employer filed its protest on May 1, 2015 the date they received the notice of claim.

REASONING AND CONCLUSIONS OF LAW:

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

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 employer did not have an opportunity to protest the notice of claim because the notice was not received in a timely fashion. Without timely notice of a disqualification, no meaningful opportunity for appeal exists. See *Smith v. Iowa Employment Security Commission*, 212

N.W.2d 471, 472 (Iowa 1973). The employer filed the protest the same day of receipt of the notice of claim. Therefore, the protest shall be accepted as timely.

REMAND: The claimant's separation from employment with this employer is remanded to the unemployment insurance service center for an initial fact-finding interview and determination.

DECISION:

The May 4, 2015 (reference 01) decision is reversed. The employer filed a timely protest.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/css