

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JUWERIYO A ALI
Claimant

JAI LAXMI MA INC
Employer

APPEAL 19R-UI-04313-LJ-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/10/19
Claimant: Respondent (2R)

Iowa Code § 96.6(2) - Timeliness of Protest

STATEMENT OF THE CASE:

The employer filed a timely appeal from the March 29, 2019, (reference 02) unemployment insurance decision that found the protest untimely and allowed benefits. After due notice was issued, a hearing was held on June 24, 2019. The claimant Juweriyo A. Ali did not register a telephone number at which to be reached and did not participate in the hearing. The employer Jai Laxmi Ma, Inc. participated through Josh Essington, Regional Manager. The administrative law judge took official notice of the administrative record, including the notice of claim and the statement of protest. Employer's Exhibit 1 and Department's Exhibit D-1 were admitted into the record.

ISSUES:

Was the employer's protest timely?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant's notice of claim was mailed to employer's address of record on March 13, 2019, and was not 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 March 25, 2019. The employer filed its protest on March 26, 2019. Essington explained that the employer did not receive the notice of claim until March 26, 2019. It responded to the notice of claim by filing a statement of protest the same day.

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 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 Emp't Sec. Comm'n*, 212 N.W.2d 471, 472 (Iowa 1973). The employer filed the protest immediately upon receipt of the notice of claim. Therefore, the protest shall be accepted as timely.

DECISION:

The March 29, 2019, (reference 02) 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.

Elizabeth A. Johnson
Administrative Law Judge

Decision Dated and Mailed

lj/scn