

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SARA A TOKHEIM

Claimant

APPEAL NO. 08A-UI-11707-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

CHAMBER OF COMMERCE

Employer

**OC: 06/29/08 R: 01
Claimant: Respondent (1)**

Section 96.7-2-a – Statement of Charges

Section 96.6-2 – Timeliness of Protest

STATEMENT OF THE CASE:

Employer filed a timely appeal from the December 9, 2008, reference 03, decision that allowed benefits and found the protest untimely. After due notice was issued, a hearing was held by telephone conference call on December 30, 2008. The claimant did participate. The employer did participate through Jeff Neighbors, Chamber President; Blanche Bosteder, Assistant Director; and Lindsay Nevins, Former Executive Director. Department's Exhibit D-1 was received into evidence.

ISSUE:

The issue is whether the employer filed a timely protest.

FINDINGS OF FACT:

Having reviewed the evidence in the record, the administrative law judge finds: Claimant's notice of claim was mailed to employer's address of record on July 8, 2008, and received by employer's secretary within ten days. The notice of claim contains a warning that any protest must be postmarked, faxed or returned not later than ten days from the initial mailing date. The employer was not made aware of the notice of claim and the secretary had no authority to act on the notice of claim. In early November 2008, a Statement of Charges was sent to the employer. The employer received the Statement of Charges on or about November 7, 2008.

The employer investigated and filed a protest on December 3, 2008. No good cause reason has been established for the delay of filing a protest.

REASONING AND CONCLUSIONS OF LAW:

Ref. 21

Ref. 83

The administrative law judge concludes that employer has failed to protest within the 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 4.35(2).* The administrative law judge further concludes that the employer has failed to timely protest pursuant to Iowa Code § 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 December 9, 2008, reference 03, decision is affirmed. Employer has failed to file a timely protest, and the decision of the representative shall stand and remain in full force and effect.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/