

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**SONIA N GONZALEZ**  
Claimant

**APPEAL NO. 13A-UI-13866-LT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**MANN'S MCDONALD LC**  
Employer

**OC: 11/17/13**  
**Claimant: Respondent (2-R)**

Iowa Code § 96.6(2) - Timeliness of Protest

**STATEMENT OF THE CASE:**

The employer filed a timely appeal from the December 16, 2013, (reference 03) decision that allowed benefits and found the protest untimely. After due notice was issued, a hearing was scheduled to be held on January 13. Both parties responded to the hearing notice instructions but the interpreter Steven Rhodes was not available when called. No hearing was held as there was sufficient evidence in the appeal letter and administrative record to resolve the matter without testimony.

**ISSUE:**

Is the employer's protest timely?

**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 November 21, 2013. The employer did file its protest on November 26, 2013, as evidenced by the employer's phone record submitted with the appeal letter and copy of the protest submitted on that date. The claimant's separation from employment has not yet been investigated or adjudicated at the claims level.

**REASONING AND CONCLUSIONS OF LAW:**

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 administrative law judge concludes that the employer filed a protest in a timely manner on November 26, 2013, but the agency did not receive the fax transmission. Immediately upon receipt of information to that effect, the protest was re-filed. Therefore, the protest shall be accepted as timely.

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

**DECISION:**

The December 16, 2013 (reference 03) decision is reversed. The employer has filed a timely protest.

**REMAND:**

The separation issue delineated in the findings of fact is remanded to the Claims Section of Iowa Workforce Development for an initial investigation and determination.

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Dévon M. Lewis  
Administrative Law Judge

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Decision Dated and Mailed

dml/pjs