

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

MATTHEW M MITCHELL
Claimant

DB&J ENTERPRISES INC
Employer

APPEAL 17A-UI-09496-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 08/20/17
Claimant: RESPONDENT (2R)

Iowa Code § 96.6(2) - Timeliness of Protest

STATEMENT OF THE CASE:

The employer filed a timely appeal from the September 13, 2017, (reference 03), decision that allowed benefits and found the protest untimely. After due notice was issued, a hearing was held on October 3, 2017. The claimant did participate. The employer did participate through Alison Harwood, Office Manager.

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 e-mailed to the employer's e-mail address in the SIDES system on August 25, 2017. The employer did not receive the usual notification that a claim had been made against their account. The employer only learned of the notification when they accessed their account after receiving an e-mail concerning another employee. For some reason the e-mail notification was never sent to the employer for Matthew Mitchell's claim. Once the employer learned of Mr. Mitchell's claim, they filed their protest the same day, September 8, 2017. The issue of claimant's separation 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 its protest within the time period prescribed by the Iowa Employment Security Law because it did not received the e-mail

notification that a claim had been made against their account. Without notification of the claim, an employer has no way to file a protest. Thus, under these circumstances the administrative law judge concludes that the employer has filed a timely notice of protest. The issue of claimant's separation from employment is remanded to the claims section of Iowa Workforce Development for an initial investigation and determination.

DECISION:

The September 13, 2017, (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.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/rvs