

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

ELLEN S ACKERMAN
Claimant

APPEAL NO: 19A-UI-07432-JE-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

A TECH INC
Employer

**OC: 05/12/19
Claimant: Respondent (4)**

Section 96.6-2 - Timeliness of Protest
Section 96.6-2 – Timeliness of Appeal
Section 96.5 – Requalification for Benefits

STATEMENT OF THE CASE:

The employer/appellant filed an appeal from the May 31, 2019, reference 03, decision that concluded it failed to file a timely protest regarding the claimant's separation of employment on November 9, 2018, and no disqualification of unemployment insurance benefits was imposed. After due notice was issued, a hearing was scheduled on October 9, 2019, before Administrative Law Judge Julie Elder. The claimant participated in the hearing. Crystal Augustine, Controller, participated in the hearing on behalf of the employer. Department's Exhibit D-1 was admitted to the record.

ISSUE:

The issues are whether the employer's appeal and protest are timely and whether the claimant has requalified for benefits.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: A decision stating the employer's protest was untimely and allowing benefits to the claimant was mailed to the employer's last known address of record on May 31, 2019. The employer received the decision. The decision contained a warning that an appeal must be postmarked or received by the Appeals Section by June 10, 2019. The appeal was not filed until September 19, 2019, which is after the date noticed on the disqualification decision. The employer missed the initial date for appeal because of a death in her immediate family and when she returned to work she realized she missed the date to file an appeal and was unaware she could appeal after that date. When she received her quarterly statement of charges she contacted the Department to see if there was anything she could do and was told at that time she could file an appeal. Under the circumstances, the administrative law judge finds the employer's appeal is timely.

The claimant's notice of claim was mailed to the employer's address of record on May 14, 2019. The employer did file a protest on May 29, 2019. The claimant has requalified for benefits since her separation from this employer.

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 reply to the notice of claim when it received it. This is sufficient evidence of intent to protest any potential charges to its account. The administrative law judge further concludes that the claimant has requalified for benefits since the separation from this employer. Accordingly, benefits are allowed and the account of this employer shall not be charged.

DECISION:

The May 31, 2019, reference 03, decision is modified in favor of the appellant. The employer has filed a timely appeal and protest, and the claimant has requalified for benefits since the separation. Benefits are allowed, provided the claimant is otherwise eligible. The account of this employer shall not be charged.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/scn