

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**SCHAMIA ONEAL**  
Claimant

**MENARD INC**  
Employer

**APPEAL 22A-UI-04611-JD-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 08/01/21  
Claimant: Respondent (2R)**

Iowa Code § 96.6(2) – Timeliness of Appeal

**STATEMENT OF THE CASE:**

On February 14, 2022, the employer filed an appeal from the February 8, 2022, (reference 03) unemployment insurance decision that found the protest untimely and allowed benefits. After due notice was issued, a hearing was held by telephone conference call on March 24, 2022. The claimant did not call the toll-free number listed on the notice of hearing and did not participate. The employer participated through Scott Kjellin, Assistant Store Manager. The administrative law judge took official notice of the administrative record.

**ISSUE:**

Is the employer's protest timely?

**FINDINGS OF FACT:**

Having reviewed the evidence in the record, the administrative law judge finds: The claimant's notice of claim was mailed to employer's address of record on August 9, 2022, 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 August 19, 2021. The employer filed its protest via fax on August 19, 2021. The claimant's separation from employment has not yet been the subject of a Benefits Bureau fact-finding interview.

**REASONING AND CONCLUSIONS OF LAW:**

The administrative law judge concludes that employer has filed a timely protest response as by the Iowa Employment Security Law.

Iowa Code § 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.

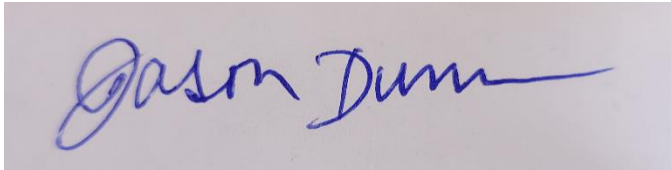
The employer faxed its protest on August 19, 2021, the last day of the appeal period. The employer's protest is deemed timely.

**DECISION:**

The February 8, 2022, (reference 03) unemployment insurance decision is reversed. The employer has 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.



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Jason Dunn  
Administrative Law Judge  
Unemployment Insurance Appeals Bureau  
1000 East Grand Avenue  
Des Moines, Iowa 50319-0209  
Fax (515) 478-3528

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April 1, 2022  
Decision Dated and Mailed

jd/jh