

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

RILEY D LIVINGSTON
Claimant

SEDONA STAFFING INC
Employer

APPEAL 22A-UI-12599-LJ-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 07/18/21
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 10, 2021, (reference 07) unemployment insurance decision that found the protest untimely and allowed benefits. After due notice was issued, a hearing was scheduled for 9:00 a.m. on Friday, June 10, 2022. The administrative law judge reviewed the administrative record, including the notice of claim and the statement of protest, and concluded the information in the administrative record was sufficient for rendering a decision. No hearing was held.

ISSUES:

Was the employer's protest timely?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant's notice of claim was mailed to employer's address of record on August 26, 2021, and was 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 September 7, 2021. The employer filed its protest on August 31, 2021. The employer provided the fax transmission report showing the fax was sent at 1:29 p.m. on August 31, 2021.

REASONING AND CONCLUSIONS OF LAW:

The sole issue is whether employer's protest is timely. The administrative law judge concludes it is.

Iowa Code section 96.6(2) provides, in pertinent part:

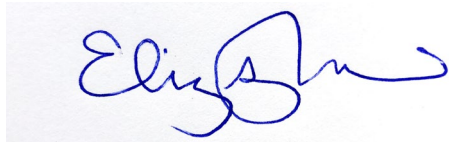
2. *Initial determination.* A representative designated by the director shall promptly notify all interested parties to the claim of its filing, and the parties have ten days from the date of mailing the notice of the filing of the claim by ordinary mail to the last known address to protest payment of benefits to the claimant.

The evidence in the administrative record shows that the employer filed a protest in a timely manner. The employer's statement of protest was submitted on August 31, well before the September 7 deadline. Therefore, the protest shall be accepted as timely.

DECISION:

The December 10, 2021, (reference 07) unemployment insurance decision is reversed. The employer 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.



Elizabeth A. Johnson
Administrative Law Judge
Unemployment Insurance Appeals Bureau

June 14, 2022
Decision Dated and Mailed

lj/lj