

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ERIN L WILLIAMS
Claimant

APPEAL NO. 08A-UI-11686-LT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**DIVERSIFIED DISTRIBUTION SERVICE
CENTER**
Employer

OC: 11/16/08 R: 04
Claimant: Respondent (4)

Iowa Code Chapter 95 – Requalification
Iowa Code § 96.6(2) – Timeliness of Protest

STATEMENT OF THE CASE:

The employer filed a timely appeal from the December 8, 2008, reference 02, decision that allowed benefits and found the protest untimely without having held a fact-finding interview pursuant to 871 IAC 24.9(2)b. After due notice was issued, a hearing was scheduled to be held by telephone conference call on December 30, 2008. The claimant did respond to the hearing notice but did not participate since she had requalified for benefits. The employer did not respond to the hearing notice instructions and did not participate but called after the hearing record was closed.

ISSUE:

The issue is whether employer's protest is timely.

FINDINGS OF FACT:

Having reviewed the appeal letter and evidence in the administrative record, the administrative law judge finds: The claimant's notice of claim was mailed to the employer's address of record on November 20, 2008 and received on or about December 1, 2008 because the employer's business was closed for Thanksgiving week. The employer filed its protest on December 2, 2008. The claimant has requalified for benefits since the separation from the employer.

REASONING AND CONCLUSIONS OF LAW:

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The employer did not have a reasonable opportunity to protest the notice of claim by the due date because the notice was not received in a timely fashion. Without timely notice of a disqualification, no meaningful opportunity for appeal exists. See *Smith v. Iowa Employment Security Commission*, 212 N.W.2d 471, 472 (Iowa 1973). The employer filed the protest within one day of receipt of the notice of claim. Therefore, the protest shall be accepted as timely.

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 the employer shall not be charged.

DECISION:

The December 8, 2008, reference 02, decision is modified in favor of the appellant. The employer has filed a timely protest, and the claimant has requalified for benefits since the separation. Benefits are allowed, provided the claimant is otherwise eligible. The account of the employer shall not be charged.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

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