

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ALLEN S HALL**  
Claimant

**APPEAL NO. 07A-UI-07848-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**EXELOW**  
Employer

**OC: 06/03/07 R: 04  
Claimant: Respondent (1)**

Section 96.6-2 – Timeliness of Protest

**STATEMENT OF THE CASE:**

Exelow (employer) appealed a representative's July 24, 2007 decision (reference 03) that concluded Allen S. Hall (claimant) was qualified to receive unemployment insurance benefits, and the employer's account could be charged for benefits paid to the claimant because the employer did not file a timely protest. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on August 29, 2007. The claimant participated in the hearing. The employer failed to respond to the hearing notice by contacting the Appeals Section prior to the hearing and providing the phone number at which the employer's representative/witness could be contacted to participate in the hearing. As a result, no one represented the employer. Based on the administrative record and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

Did the employer file a timely protest?

**FINDINGS OF FACT:**

The claimant worked for the employer from May 29 to 31, 2007. The claimant's employment ended on May 31, 2007. The claimant established a claim for unemployment insurance benefits during the week of June 3, 2007. On June 11, 2007, the Department mailed a notice to the employer indicating the claimant had filed a claim for benefits and the maximum amount of money that could be charged against the employer's account (zero). The Notice of Claim indicated the employer had until June 21, 2007, to respond to the notice.

It is not known when the employer received the Notice of Claim. Neither the employer nor the employer's representative responded to the Notice of Claim until July 18, 2007.

**REASONING AND CONCLUSIONS OF LAW:**

The law provides that all interested parties shall be promptly notified about an individual filing a claim. The parties have ten days from the date of mailing the Notice of Claim to protest

payment of benefits to the claimant. Iowa Code § 96.6-2. Another portion of Iowa Code § 96.6-2 dealing with timeliness of an appeal from a representative's decision states an appeal must be filed within ten days after notification of that decision was mailed. In addressing an issue of timeliness of an appeal under that portion of this Code section, the Iowa Supreme Court has held that this statute clearly limits the time to do so, and compliance with the appeal notice provision is mandatory and jurisdictional. Beardslee v. IDJS, 276 N.W.2d 373 (Iowa 1979).

The reasoning and holding of the Beardslee court is considered controlling on the portion of Iowa Code § 96.6-2 which deals with the time limit to file a protest after the Notice of Claim has been mailed to the employer. The facts do not indicate when the employer received the Notice of Claim. The employer did not participate in the hearing, so the facts do not establish that the employer had a legal excuse for filing a late protest.

The employer is not one of the claimant's base period employers. During the claimant's current benefit year, the employers account will not be charged. The claimant remains qualified to receive unemployment insurance benefits as of June 3, 2007.

**DECISION:**

The representative's July 24, 2007 decision (reference 03) is affirmed. The employer did not file a timely protest. This means the claimant remains qualified to receive unemployment insurance benefits as of June 3, 2007, provided he meets all other eligibility requirements. The employer is not one of the claimant's base period employers and will not be charged for benefits the claimant receives during his current benefit year.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/css