

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

NICOLE GALINDO
Claimant

PILOT TRAVEL CENTERS LLC
Employer

APPEAL 22A-UI-00343-JD-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 10/17/21
Claimant: Respondent (2R)**

Iowa Code § 96.6(2) – Timeliness of Appeal

STATEMENT OF THE CASE:

On November 24, 2021, the employer, Pilot Travel Center, LLC, filed an appeal from the November 19, 2021, (reference 03) unemployment insurance decision that found the employer's protest untimely. After due notice was issued, a hearing was held by telephone conference call on January 24, 2022. The claimant, Nicole Galindo, participated and testified. The employer participated through hearing representative, Kerthen Harris. 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 November 5, 2021, and was received 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 November 15, 2021. The employer faxed their protest on November 15, 2021, as evidenced by the employer's fax verification email that accompanied the employer's appeal. 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.

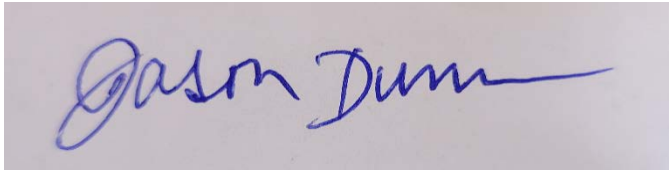
Another portion of this same Code section dealing with timeliness of an appeal from a representative's decision states that such an appeal must be filed within ten days after notification of that decision was mailed. In addressing an issue of timeliness of an appeal under that portion of this Code section, the Iowa Supreme Court held that this statute prescribing the time for notice of appeal clearly limits the time to do so, and that compliance with the appeal notice provision is mandatory and jurisdictional. *Beardslee v. IDJS*, 276 N.W.2d 373 (Iowa 1979). In this case, the employer filed a timely notice of appeal by faxing their protest to Iowa Workforce Development Department on November 15, 2021. The employer provided proof of their submission by submitting their fax verification email confirmation with their appeal. The fax email verification submitted by the employer confirms that their protest was timely filed on November 15, 2021.

DECISION:

The November 19, 2021, (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.



Jason Dunn
Administrative Law Judge
Unemployment Insurance Appeals Bureau
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February 14, 2022
Decision Dated and Mailed

jd/scn