

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

DYLAN M BRANDON
Claimant

ALICESRD LLC
Employer

APPEAL 18A-UI-11657-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 10/28/18
Claimant: Respondent (2R)

Iowa Code § 96.6(2) - Timeliness of Protest

STATEMENT OF THE CASE:

The employer filed a timely appeal from the November 29, 2018, (reference 02), decision that allowed benefits and found the protest untimely. After due notice was issued, a hearing was held on December 18, 2018. The claimant did not participate. The employer did participate through Tonya Salvucci, Owner and David Kinsley, Business Partner. Employer's Exhibit 1 was admitted into the record.

ISSUE:

Did the employer file a timely notice of protest?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant's notice of claim was mailed to the employer's address of record on November 6, 2018. Unfortunately, the notice was mailed to an incomplete mailing address. The employer's correct suite number is 114 and the notice of claim was only addressed to suite 1. The incorrect address resulted in the employer not receiving the notice of claim until November 21, well after the due date of November 16, 2018. The employer did file its protest on November 23, 2018. The issue of claimant's separation from employment has not yet been investigated or adjudicated at the claims level.

REASONING AND CONCLUSIONS OF LAW:

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 administrative law judge concludes that the employer filed its protest within the time period prescribed by the Iowa Employment Security Law because it did not receive the notice of claim in time to file a timely notice of protest. The notice of claim was sent to an incomplete employer mailing address. The employer filed their notice of protest within two days of receipt of the actual notice of claim. This is sufficient evidence of intent to protest any potential charges to its account. The issue of claimant's separation from employment is remanded to the claims section of Iowa Workforce Development for an initial investigation and determination.

DECISION:

The November 29, 2018, (reference 02), decision is reversed. The employer has filed a timely protest.

REMAND:

The separation issue delineated in the findings of fact is remanded to the claims section of Iowa Workforce Development for an initial investigation and determination.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/rvs