

**IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI**

**ROSE MARY R RAMON
415 – 2ND ST SW
MASON CITY IA 50401-3718**

**IBARRA INDUSTRIAL COMMERCIAL
AND INST SERVICES INC
1010 N 8TH ST W
CLEAR LAKE IA 50428**

**Appeal Number: 06A-UI-04960-HT
OC: 04/09/06 R: 02
Claimant: Respondent (2-R)**

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.6-2 - Timeliness of Protest

STATEMENT OF THE CASE:

The employer appealed a representative's decision dated May 4, 2006, reference 02, that concluded it failed to file a timely protest regarding the claimant's separation of employment on April 4, 2006, and no disqualification of unemployment insurance benefits was imposed. A hearing was scheduled and held on May 23, 2006, pursuant to due notice. The claimant participated on her own behalf. The employer participated by Owner Joe Ibarra. Exhibit D-1 was admitted into the record.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witnesses and having considered all of the evidence in the record, finds that: The claimant's notice of claim was

mailed to the employer's address of record on April 13, 2006. The United States Postal Service did not deliver the notice to that address until May 1, 2006, which was beyond the ten-day time period allowed by law. The employer filed the protest on May 2, 2006.

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 employer did not receive the notice until after the statutory period to respond had passed. When it was received, the protest was filed the next day. The administrative law judge considers the employer to have responded in a timely manner after receiving the notice and it should be accepted.

DECISION:

The decision of the representative dated May 4, 2006, reference 02, is reversed. The employer has filed a timely protest. The issue of the claimant's separation from employment is remanded to the Claims Section for determination.

bgh\kkf