

**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**

**KERRY FLINN
3177 ADAMS ST
CUMMING IA 50061**

**THE TOTAL CONCEPT INC
PO BOX 307
ANKENY IA 50021**

**Appeal Number: 05A-UI-12030-BT
OC: 10/30/05 R: 02
Claimant: Respondent (4)**

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
Iowa Code Chapter 95 - Requalification

STATEMENT OF THE CASE:

The Total Concept, Inc. (employer) appealed an unemployment insurance decision dated November 18, 2005, reference 02, decision that concluded it failed to file a timely protest regarding the claimant's separation of employment on April 15, 2005, and no disqualification of unemployment insurance benefits was imposed. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on December 14, 2005. The claimant did not comply with the hearing notice instructions and did not call in to provide a telephone number at which she could be contacted, and therefore, did not participate. The employer participated through owner Luella Gustafson.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony 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 November 3, 2005. The employer filed its protest on November 17, 2005 immediately after receiving the notice of claim. The claimant has requalified for benefits since the separation from the employer.

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 the employer filed its protest within the time period prescribed by the Iowa Employment Security Law because it filed its protest upon receipt. 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 unemployment insurance decision dated November 18, 2005, reference 02, 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.

sdb/pjs