

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**LISA FESLER**  
Claimant

**AUTO SYSTEMS EXPERTS INC**  
Employer

**APPEAL 21A-UI-14596-S2-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 12/20/20**  
**Claimant: Respondent (2R)**

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Iowa Code § 96.6(2) - Timeliness of Protest

**STATEMENT OF THE CASE:**

The employer filed a timely appeal from the June 9, 2021, (reference 04) unemployment insurance decision that found the protest untimely and allowed benefits. After due notice was issued, a hearing was held on August 23, 2021. Claimant Lisa Fesler did not register for the hearing and did not participate. Employer Auto Systems Experts, Inc. participated through human resources manager Kathleen McDonald. The administrative law judge took official notice of the administrative record, including the notice of claim and the statement of protest.

**ISSUES:**

Was the employer's protest timely?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant's notice of claim was mailed to employer's address of record on December 30, 2021. 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 January 10, 2021. The employer filed its protest on January 15, 2021. All of employer's mail was delivered at a delayed pace during the end of December 2020 and early of 2021, including the notice of claim. Upon receipt of the notice, employer promptly filed this appeal.

Claimant's separation from employment has not yet been the subject of an initial interview or decision.

**REASONING AND CONCLUSIONS OF LAW:**

The first issue is whether employer's protest is timely. The administrative law judge concludes it is.

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.

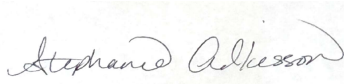
The employer did not have an opportunity to protest the notice of claim because the notice was not received in a timely fashion. Without timely notice of a disqualification, no meaningful opportunity for appeal exists. See *Smith v. Iowa Emp't Sec. Comm'n*, 212 N.W.2d 471, 472 (Iowa 1973). The employer promptly filed the protest upon receipt of the notice of claim. Therefore, the protest shall be accepted as timely.

**DECISION:**

The June 9, 2021, (reference 04) unemployment insurance decision is reversed. The employer 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.



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September 13, 2021  
Decision Dated and Mailed

sa/kmj