

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**BROOKE J. LAWRENCE-DAMME**  
Claimant

**NXT BANK**  
Employer

**APPEAL 22A-UI-01471-CS-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 11/14/21  
Claimant: Respondent (2R)**

Iowa Code § 96.6(2) – Timeliness of Protest

**STATEMENT OF THE CASE:**

On December 20, 2021, Nxt Bank (employer) filed an appeal from the December 13, 2021, reference 01, unemployment insurance decision that found the protest untimely and allowed Brooke J. Lawrence-Damme (claimant) to receive benefits. After due notice was issued, a telephone hearing was held on February 8, 2022. The claimant participated. The employer participated through Employee Relations and Benefits Manager, Teresa Jacobson. The administrative law judge took official notice of the administrative record, including the notice of claim and protest.

**ISSUE:**

Is the employer's protest timely?

**FINDINGS OF FACT:**

Having reviewed the evidence in the record, the administrative law judge finds: The claimant separated from employment on February 12, 2021 and filed a claim for benefits effective November 14, 2021. Nxt bank merged with Heartland bank on October 1, 2021.

The notice of claim was mailed to employer's address of record on November 23, 2021, and was received by employer on December 6, 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 December 3, 2021. The employer did not file a protest response until December 7, 2021, due to the employer receiving the notice of claim on December 6, 2021.

**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 filed the protest within one day of receipt of the notice of claim. Therefore, the protest shall be accepted as timely.

A decision has not been issued on claimant's separation from the employer. The issue of claimant's separation is remanded to the benefits bureau for an initial investigation and determination.

**DECISION:**

The December 13, 2021, (reference 01) 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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Carly Smith  
Administrative Law Judge

February 28, 2022

Decision Dated and Mailed

cs/mh