

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

**SEAN M COBB**  
Claimant

**APPEAL NO. 14A-UI-10019-NT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**YOUTH SHELTER CARE OF NORTH**  
Employer

**OC: 08/24/14**  
**Claimant: Respondent (1)**

Section 96.6(2) – Timeliness of Protest

**STATEMENT OF THE CASE:**

The employer filed a timely appeal from the September 15, 2014 (reference 03) decision that allowed benefits and found the employer's protest untimely. After due notice was issued, a hearing was held by telephone conference call on October 15, 2014. The claimant did not participate. The employer participated through Dr. Jim Seward, Executive Director.

**ISSUE:**

The issue is whether the employer's protest was timely.

**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 August 29, 2014 and received by the employer within ten days. The notice of claim contains a warning that any protest must be postmarked, faxed, or returned not later than ten days from the initial mailing date. The employer did not file a protest until September 11, 2014 which is after the ten-day period had expired. The delay in returning the protest took place because the executive director, as well as the organization's administrative assistant, had been absent due to illness and the employer had made no arrangements for matters of this nature, concerning official business, to be handled by other employees in their absence.

**REASONING AND CONCLUSIONS OF LAW:**

Iowa Code § 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 failed to effect a timely protest within the time period prescribed by the Iowa Employment Security Law. This was due to any Agency error or misinformation or delay or other action of the United States Postal Service, pursuant to 871 IAC 24.35(2). The administrative law judge further concludes that the employer has failed to timely protest, pursuant to Iowa Code section 96.6(2), and the administrative law judge lacks jurisdiction to make a determination with respect to the nature of the claimant's termination of employment. See Beardslee v. IDJS, 276 N.W.2d 373 (Iowa 1979); Franklin v. IDJS, 277 N.W.2d 877 (Iowa 1979), and Pepsi-Cola Bottling Company v. Employment Appeal Board, 465 N.W.2d 674 (Iowa App. 1990).

**DECISION:**

The decision of the representative dated September 15, 2014 (reference 03) is affirmed. The employer has failed to file a timely protest and the decision of the representative shall stand and remain in full force and effect.

---

Terence P. Nice  
Administrative Law Judge

---

Decision Dated and Mailed

can/can