

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

EMMA L HALL
Claimant

APPEAL 19A-UI-02213-AW-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**COMMUNITY HEALTH CENTER OF FORT
DODGE**
Employer

**OC: 12/09/18
Claimant: Respondent (2R)**

Iowa Code § 96.6(2) – Filing – Timely protest

STATEMENT OF THE CASE:

Community Health Center of Fort Dodge, Employer, filed an appeal from the March 7, 2019 (reference 02) unemployment insurance decision that found employer's protest untimely. The parties were properly notified of the hearing. A telephone hearing was held on March 29, 2019 at 9:00 a.m. Claimant participated. Employer participated through Beth Dieleman, Administrator. Employer's Exhibit 1 was admitted. Department's Exhibit D-1 was admitted. Official notice was taken of the administrative record.

ISSUE:

Whether the employer filed a timely protest.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Employer received the Notice of Claim on December 18, 2018. (Dieleman Testimony) The notice lists a due date of December 24, 2018. (Exhibit D-1) Employer submitted the Employer Statement of Protest to Iowa Workforce Development on December 18, 2018 by faxing the protest to the fax number on the back of the notice. (Dieleman Testimony; Exhibit 1)

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the employer filed a timely protest. The matter is remanded for a fact-finding interview and unemployment insurance decision.

Iowa Code section 96.6(2) provides:

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.

Iowa Admin. Code r. 871-24.35(1) provides:

1. Except as otherwise provided by statute or by division rule, any payment, appeal, application, request, notice, objection, petition, report or other information or document submitted to the division shall be considered received by and filed with the division:

(c) If transmitted by any means other than [United States Postal Service or the State Identification Data Exchange System (SIDES)], on the date it is received by the division.

Iowa Admin. Code r. 871-24-35(2) provides:

2. The submission of any payment, appeal, application, request, notice, objection, petition, report or other information or document not within the specified statutory or regulatory period shall be considered timely if it is established to the satisfaction of the division that the delay in submission was due to division error or misinformation or to delay or other action of the United States postal service.

The employer submitted its protest via facsimile to the number provided on the notice before the due date. Any delay in receipt of the protest by Iowa Workforce Development was due to division error. The employer's protest is timely.

DECISION:

The March 7, 2019 (reference 02) 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.

Adrienne C. Williamson
Administrative Law Judge
Unemployment Insurance Appeals Bureau
Iowa Workforce Development
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Decision Dated and Mailed

acw/rvs