

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ROBERTO SARABIA**  
Claimant

**APPEAL NO. 08A-UI-00726-H2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**TEMP ASSOCIATES - MARSHALLTOWN**  
Employer

**OC: 11-25-07 R: 02  
Claimant: Respondent (4)**

Iowa Code § 96.6(2) – Timeliness of Protest  
Iowa Code Chapter 95 – Requalification

**STATEMENT OF THE CASE:**

The employer filed a timely appeal from the January 18, 2008, reference 01, decision that allowed benefits and found the protest untimely. After reviewing the appeal letter sent in by the employer, the administrative law judge concluded no additional testimony was necessary and no hearing was held. The employer's appeal letter and documents included with the appeal letter were considered in making this decision.

**ISSUE:**

The issue is whether employer's protest is timely.

**FINDINGS OF FACT:**

Having reviewed 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 November 27, 2007. The employer did protest on December 3, 2007 as is evidenced by their fax confirmation sheet but for some unknown reason Iowa Workforce Development did not receive the employer's notice of protest. The claimant has requalified for benefits since the separation from the employer.

**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 that the employer filed its protest within the time period prescribed by the Iowa Employment Security Law because their records indicate that they filed a timely protest on December 3, 2007 well before the December 7, 2007 due date. This is sufficient evidence of intent to protest any potential charges to their account. 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 January 18, 2008, reference 01, decision 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.

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Teresa K. Hillary  
Administrative Law Judge

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Decision Dated and Mailed

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