

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

REBECCA A HEJNA
Claimant

GRAETTINGER COUNTRY STORE INC
Employer

APPEAL 19A-UI-09936-AW-T
ADMINISTRATIVE LAW JUDGE
DECISION

OC: 11/10/19
Claimant: Respondent (1)

Iowa Code § 96.6(2) – Timeliness of Protest

STATEMENT OF THE CASE:

Employer filed an appeal from the December 6, 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 January 13, 2020, at 11:00 a.m. Claimant participated. Employer participated through Pam Wegener, Store Manager. Official notice was taken of the administrative record.

ISSUE:

Whether employer filed a timely protest.

FINDINGS OF FACT:

Having reviewed the evidence in the record, the administrative law judge finds: The Notice of Claim was mailed to Post Office Box 430, Emmetsburg, Iowa on November 13, 2019. That was employer's correct business address on that date. Employer does not know when the notice was received in its post office box. Employer does not check its post office box every day. Employer personally received the Notice of Claim on November 29, 2019. Employer completed and signed the Employer Statement of Protest on November 30, 2019. The Notice of Claim lists a due date of November 25, 2019. Employer submitted its protest via facsimile on December 2, 2019. Employer's protest was received by Iowa Workforce Development on December 3, 2019.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that employer's protest was untimely.

Iowa Code § 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)(a) 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 a week after the due date. Employer's delay in submitting its protest was a result of its office procedures and frequency of checking its post office box. Employer has not established that its delay is attributable to the agency or the United States Postal Service. Employer's protest is untimely; therefore, the administrative law judge is without jurisdiction to entertain any appeal regarding the separation from employment.

DECISION:

The December 6, 2019 (reference 02) unemployment insurance decision is affirmed. Employer's protest was untimely.

Adrienne C. Williamson
Administrative Law Judge
Unemployment Insurance Appeals Bureau
Iowa Workforce Development
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515)478-3528

Decision Dated and Mailed

acw/scn