

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JOE D MORRIS
Claimant

APPEAL 17R-UI-03322-CL-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

ALL SEASONS CLEANING MANAGEMENT
Employer

**OC: 12/11/16
Claimant: Respondent (4)**

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

STATEMENT OF THE CASE:

The employer filed an appeal from the January 3, 2017, (reference 03) unemployment insurance decision that allowed benefits based upon an untimely protest. The parties were properly notified about the hearing. A telephone hearing was held on April 20, 2017. Claimant did not participate. Employer participated through bookkeeper Teresa Brown. The administrative law judge took official notice of the administrative record, including the Notice of Claim and protest. Employer's Exhibit 1 was received.

ISSUES:

Is the employer's protest timely?
Has the claimant requalified for benefits since the separation from this employer?

FINDINGS OF FACT:

Having reviewed the evidence in the record, the administrative law judge finds: In this case, the employer first learned of the notice of claim when employer received a SIDES email notice of another claim on December 29, 2016. Employer immediately filed a protest, but the response was considered untimely because the notice of claim had a response deadline of December 28, 2016. The SIDES notice of claim for this claimant was not e-mailed to the employer's address of record until January 13, 2017, *after* employer had already received the January 3, 2017, decision finding its protest untimely.

The claimant has requalified for benefits since the separation from the employer.

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.

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 3, 2017, (reference 03) unemployment insurance 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.

Christine A. Louis
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Decision Dated and Mailed

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