

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

**AARON R NUNEZ**  
Claimant

**APPEAL NO: 19A-UI-07481-JE-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**RETAIL DVD LLC**  
Employer

**OC: 08/25/19  
Claimant: Respondent (2R)**

Section 96.6-2 - Timeliness of Protest

**STATEMENT OF THE CASE:**

The employer appealed from the September 18, 2019, reference 01, decision that concluded it failed to file a timely protest regarding the claimant's separation of employment on August 23, 2019, and no disqualification of unemployment insurance benefits was imposed. A hearing was scheduled and held on October 8, 2019, pursuant to due notice. The claimant did not respond to the hearing notice and did not participate in the hearing. Zachary Hall, Manager and Eleanor Bentrot, friend of Mr. Hall, participated in the hearing on behalf of the employer. Department's Exhibit D-1 was admitted to the record.

**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 30, 2019. The employer filed its protest by mailing it from the United States Post Office on September 11, 2019. There are issues regarding the claimant's separation from this employer that have not yet been investigated or adjudicated at the claims level.

**REASONING AND CONCLUSIONS OF LAW:**

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 administrative law judge concludes that the employer filed its protest within the time period prescribed by the Iowa Employment Security Law because it testified it mailed it from the United States Post Office September 4, 2019. The issue of the claimant's separation from this employer is remanded to the Claims Section of Iowa Workforce Development for an initial investigation and determination.

**DECISION:**

The September 18, 2019, reference 01, decision is reversed. The employer has filed a timely protest. The issue of the claimant's separation from this employer is remanded to the Claims Section of Iowa Workforce Development for an initial investigation and determination.

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Julie Elder  
Administrative Law Judge

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Decision Dated and Mailed

je/scn