

**IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI**

**SARA J WEISBECK
613 – 4TH ST N
LE CLAIRE IA 52748**

**KINSETH HOTEL CORPORATION
c/o EMPLOYERS UNITY INC
PO BOX 749000
ARVADA CO 80006-9000**

**Appeal Number: 05A-UI-05967-CT
OC: 05/08/05 R: 04
Claimant: Respondent (2-R)**

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.6(2) – Timeliness of Protests

STATEMENT OF THE CASE:

Kinseth Hotel Corporation filed an appeal from a representative's decision dated May 25, 2005, reference 01, which held that the protest to Sara Weisbeck's claim had not been timely filed. After due notice was issued, a hearing was held by telephone on June 23, 2005. The employer participated by Lesley Buhler, Paralegal/Hearing Representative with Employers Unity, Inc. Exhibit One was admitted on the employer's behalf. Ms. Weisbeck responded to the notice of hearing. However, because of a family emergency and, in light of the limited scope of the hearing, opted not to participate.

FINDINGS OF FACT:

Having heard the testimony of the witness and having reviewed all the evidence in the record, the administrative law judge finds: Ms. Weisbeck filed a claim for job insurance benefits effective May 8, 2005. Notice of the claim was mailed to the employer's authorized representative on May 12. The notice of claim was received on May 14 and a protest was filed by fax on May 23, 2005 at 15:08. The fax machine inscription on the protest received by Workforce Development confirms that the protest was transmitted on May 23, 2005.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether the employer filed a timely protest to Ms. Weisbeck's claim as required by Iowa Code section 96.6(2). The evidence establishes to the satisfaction of the administrative law judge that the protest was filed on May 23, 2005, the due date noted on the face of the notice of claim. Therefore, the agency has jurisdiction to adjudicate Ms. Weisbeck's separation from employment. This matter shall be remanded to Claims for that purpose.

DECISION:

The representative's decision dated May 25, 2005, reference 01, is hereby reversed. The employer filed a timely protest to the claim. This matter is remanded to Claims for an investigation and determination regarding Ms. Weisbeck's separation from Kinseth Hotel Corporation.

cfc/sc