

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

KRISTINE M ROSSMILLER
Claimant

HALLMARK SPECIALTY RETAIL GRP INC
Employer

APPEAL 19A-UI-01185-H2T
ADMINISTRATIVE LAW JUDGE
DECISION

OC: 01/13/19
Claimant: Respondent (4)

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

STATEMENT OF THE CASE:

The employer filed a timely appeal from the February 1, 2019, (reference 04) decision that allowed benefits and found the protest untimely. No hearing was held as there was sufficient evidence in the appeal letter and accompanying documents to resolve the matter without testimony.

ISSUE:

Did the employer file a timely notice of protest, and if so has the claimant requalified for benefits since the separation?

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 January 16, 2019. The employer received the notice of claim before the due date of January 28, 2019. The employer has submitted numerous business records showing their repeated attempts to fax in their notice of protest on January 28, 2019 to the correct fax number. With each fax attempt the employer continued receive an error message as the agency fax machine would not accept their submission. The employer filed its protest on January 29, 2019 when the agency fax machine would accept the submission. The claimant has requalified for benefits since the separation from the employer.

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 employer did not have an opportunity to protest the notice of claim by the due date because the agency fax machine would not accept their notice of protest. The only reason the employer's notice of protest was one day late was because of the agency fax machine malfunctioned. The employer filed the protest within one day of receipt of the notice of claim. Under these circumstances, 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 February 1, 2019, (reference 04) 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.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/rvs