

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

EMILY K ROBERTS
Claimant

KDH HOME HEALTH INC
Employer

APPEAL 21A-UI-24308-LJ-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/07/21
Claimant: Respondent (2-R)

Iowa Code § 96.6(2) – Timeliness of Protest

STATEMENT OF THE CASE:

On November 4, 2021, the employer filed an appeal from the October 29, 2021, (reference 02) unemployment insurance decision that found the protest untimely and allowed benefits. After due notice was issued, a hearing was held by telephone conference call at 8:00 a.m. on Tuesday, January 11, 2022. The claimant, Emily K. Roberts, participated. The employer, KDH Home Health, Inc., participated through Sherry Peterson, Office Manager. The administrative law judge took official notice of the administrative record, including the Notice of Claim and Statement of Protest.

ISSUE:

Is the employer's protest timely?

FINDINGS OF FACT:

Having reviewed the evidence in the record, the administrative law judge finds: Claimant's notice of claim was mailed to employer's address of record on March 12, 2021, and was received by employer within ten days. The notice of claim contains a warning that the employer protest response is due ten days from the initial notice date and gave a response deadline of March 22, 2021. The employer filed its protest on March 22, 2021. The employer submitted its confirmation fax receipt printed from its fax machine showing the fax was successfully transmitted to Iowa Workforce Development on March 22. (Employer Exhibit 1)

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.6(2) provides, in pertinent part:

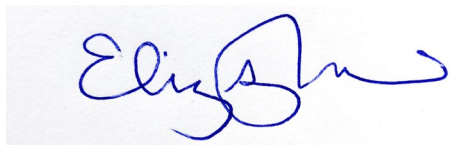
2. Initial determination. A representative designated by the director shall promptly notify all interested parties to the claim of its filing, and the parties have ten days from the date of mailing the notice of the filing of the claim by ordinary mail to the last known address to protest payment of benefits to the claimant.

The employer filed a protest in a timely manner on March 22, 2021, but the agency did not receive the fax transmission. The employer has furnished proof that the protest was submitted timely, on the date it was due. Therefore, the protest shall be accepted as timely.

DECISION:

The October 29, 2021, (reference 02) unemployment insurance decision is reversed. The employer filed a timely protest.

REMAND: The separation issue is remanded to the Benefits Bureau of Iowa Workforce Development for a fact-finding interview and unemployment insurance decision.



Elizabeth A. Johnson
Administrative Law Judge
Unemployment Insurance Appeals Bureau

February 1, 2022
Decision Dated and Mailed

lj/lj