

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SHANE A SAMPSON
Claimant

APPEAL NO. 17A-UI-00735-TNT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ALTER TRADING CORPORATION
Employer

OC: 12/11/16
Claimant: Respondent (2/R)

Iowa Code § 96.6(2) – Timeliness of Protest

STATEMENT OF THE CASE:

Alter-Trading Corporation filed a timely appeal from the January 10, 2017, reference 01, decision that allowed benefits and found the protest on the claim of Shane A. Sampson untimely. After due notice was provided, a telephone hearing was held on February 10, 2017. Claimant participated. The employer participated through Ms. Diana Perry-Lehr, Hearing Representative, and witness, Ms. Amanda Nowasell, Claims Specialist.

ISSUE:

The issue is whether the employer filed a timely protest.

FINDINGS OF FACT:

Having considered all of the evidence in the record, the administrative law judge finds: An attempt was made on December 14, 2016, to notify Alter-Trading Corporation via its representative company that Shane Sampson had filed an unemployment claim on his separation from work that had taken place on August 15, 2016. The notification was transmitted through the agency's "SIDES" electronic system.

Because of a system issue, the electronic notification was not received by the employer or its representative firm until the end of December 2016, after the 10-day protest period had expired. The employer noted similar issues with other notices of claims filed through the electronic system and notified Iowa Workforce Development of the issue. A representative of Iowa Workforce Development confirmed that there had been an anomaly in the system that had provided a number of notices of claims filed from properly being electronically delivered. The employer proceeded to file its protest as soon as possible. The employer's protest was electronically submitted on January 6, 2017.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code § 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's protest that was submitted electronically on January 6, 2017, should be considered timely, as the employer, through no fault of its own, was unable to protest the claim within 10 days because the employer did not have notice of the claim through no fault of its own. Due to a system's issue, the notification on a claim filed by Shane Sampson on his separation from employment on August 15, 2016, was not received by the employer when an attempt was made to electronically transmit it to the employer on December 14, 2016. The employer did not have notice of the claim filed until after the 10-day statutory period had expired through no fault of its own. The employer filed a protest on the claim within 10 days of the date that the employer actually received the notice in this matter.

The evidence of the employer's intent to protest the claim is sufficient and the employer's inability to protest the claim within the 10-day statutory time period was through no fault of the employer. The issue of Shane Sampson's job separation is remanded to the claims section of Iowa Workforce Development for an initial investigation and determination.

DECISION:

The representative's decision dated January 10, 2017, reference 01, is reversed. The employer is considered to have filed a timely protest. The issue of the claimant's separation from employment is remanded to the claims section of Iowa Workforce Development for an initial investigation and determination.

Terry Nice
Administrative Law Judge

Decision Dated and Mailed

rvs/rvs