

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CODEY E SUTTON

Claimant

APPEAL NO. 17A-UI-04908-TNT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ASSOCIATE STAFFING LLC

Employer

OC: 04/09/17

Claimant: Respondent (2)

Iowa Code Section 96.6(2) – Timeliness of Protests

STATEMENT OF THE CASE:

The employer filed a timely appeal from the May 1, 2017, reference 03, decision that allowed benefits and found the employer's protest untimely. After due notice was issued, a telephone hearing was held on May 25, 2017. Although the claimant submitted a telephone number for the hearing, he was not available at the telephone number provided. The employer participated by Ms. Amanda Fahy, Recruiting Coordinator.

ISSUE:

The issue is whether employer's protest is 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 April 13, 2017, and was received by employer at its address of record on Tuesday, April 25, 2017, after the ten days had lapsed. The notice of claim contains a warning that any protest must be postmarked, faxed or returned not later than ten days from the initial *mailing* date. The employer did not file a protest until April 27, 2017, which is after the 10-day period had expired. After the notice of claim was received at the company's accounting office, its address of record, the notice of claim was electronically forwarded to the company's business offices where it was completed and returned to Iowa Workforce Development. It appears that the employer has now modified its address of record to include the business location of the company's offices.

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 is timely. The employer failed to protest within the time period prescribed by the Iowa Employment Security Law, because the notice of claim was delayed in its delivery by the United States Postal Service pursuant to 871 IAC 24.35(2). The administrative law judge concludes that the notice of claim filed did not arrive at the employer's address of record until after the 10-day protest period had expired, through no fault of the employer. Upon receiving the notice of claim filed, the employer quickly took action to complete the company's protest of the claim and to return the protest to Iowa Workforce Development. The employer has established good cause for filing beyond the 10-day statutory time period. The issue of the claimant'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 May 1, 2017, reference 03, is reversed. The employer's protest is considered timely. The delivery of the notice of claim was delayed by the action of the United States Postal Service pursuant to 871 IAC 24.35(2). The issue of the claimant's job separation is remanded to the claims section of Iowa Workforce Development for an initial investigation and determination.

Terry P. Nice
Administrative Law Judge

Decision Dated and Mailed

rvs/rvs