

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LARRY G SPILDE
Claimant

APPEAL NO. 09A-UI-01296-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

BRUENING ROCK PRODUCTS INC
Employer

**OC: 01-04-09 R: 04
Claimant: Respondent (4)**

Section 96.6-2 – Timeliness of Protest
Iowa Code Chapter 95 – Requalification

STATEMENT OF THE CASE:

The employer filed a timely appeal from the January 23, 2009, reference 01, decision that allowed benefits and found the protest untimely. After due notice was issued, a hearing was scheduled to be held by telephone conference call on February 13, 2009. After reviewing the employer's appeal letter and the administrative file, the administrative law judge determined that no additional testimony was necessary.

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 7, 2009. The employer did protest on January 21, 2009. 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 administrative law judge concludes that the employer filed its protest within the time period prescribed by the Iowa Employment Security Law because the employer did not receive the notice of claim form in time to file a timely notice of protest because he was out of the office. This is sufficient evidence of intent to protest any potential charges to their account. 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 January 23, 2009, reference 01, 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/kjw