

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

DENNIS MCALLISTER
Claimant

CITY OF DAVENPORT
Employer

APPEAL 22A-UI-02872-JD-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 12/19/21
Claimant: Respondent (2R)**

Iowa Code § 96.6(2) – Timeliness of Appeal

STATEMENT OF THE CASE:

On January 14, 2022, the employer filed an appeal from the January 12, 2022, (reference 03) unemployment insurance decision that found the protest untimely and allowed benefits. After due notice was issued, a hearing was held by telephone conference call on February 25, 2022. The claimant participated. The employer participated through Christina Murphy, Assistant Human Resources. Employer's 1 was admitted. The administrative law judge took official notice of the administrative record.

ISSUE:

Is the employer's protest timely?

FINDINGS OF FACT:

Having reviewed the evidence in the record, the administrative law judge finds: The claimant's notice of claim was mailed to employer's address of record on December 23, 2021. The employer received the notice of claim within the appeal period. 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 January 3, 2022. The employer filed its protest via fax on January 3, 2022. (Employer's Exhibit 1). The claimant's separation from employment has not yet been the subject of a Benefits Bureau fact-finding interview.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes that employer has filed a timely protest response as by the Iowa Employment Security 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.

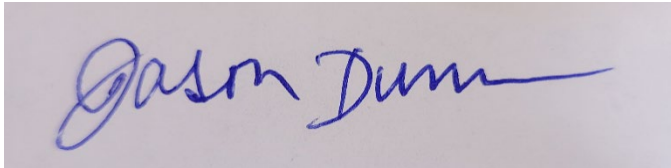
The employer filed its protest to the Notice of Claim via fax on January 3, 2022. (Employer's Exhibit 1). The employer filed the protest within the appeal period. The employer's protest is timely.

DECISION:

The January 12, 2022, (reference 03) unemployment insurance decision is reversed. The employer has 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.



Jason Dunn
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515) 478-3528

March 16, 2022
Decision Dated and Mailed

jd/scn