

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TIFFANY D VASQUEZ
Claimant

APPEAL NO. 07O-UI-01369-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ILLINOIS RESTAURANT ASSOCIATION
Employer

**OC: 11/05/06 R: 12
Claimant: Respondent (4)**

Section 87 1IAC 24.26(22) – Temporary Employment
Section 96.6(2) – Timeliness of Protests

STATEMENT OF THE CASE:

Illinois Restaurant Association filed an appeal from a representative's decision dated December 7, 2006, reference 02, which held that the protest to Tiffany Vasquez' claim was not timely filed. After due notice was issued, a hearing was held by telephone on January 4, 2007. The decision of the administrative law judge, dated January 4, 2007, affirmed the prior decision holding the protest untimely. The employer filed a further appeal with the Employment Appeal Board which, on February 5, 2007, remanded the matter for a new hearing on a finding that the employer's failure to participate in the hearing was through no fault of its own.

Pursuant to the remand, due notice was issued scheduling a telephone hearing for February 21, 2007. The employer participated by Dan Mowrer, Beverage Operations Manager. Ms. Vasquez responded to the notice of hearing but was not available at the number provided at the scheduled time of the hearing.

ISSUE:

At issue in this matter is whether the employer filed a timely protest and, if so, whether Ms. Vasquez was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

Having heard the testimony of the witness and having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Vasquez filed a claim for job insurance benefits effective November 5, 2006. Notice of the claim was mailed to the employer at its address of record on November 14, 2006. The employer did not receive the notice until December 3, 2006. A protest was filed by fax on December 5, 2006.

Ms. Vasquez was hired by Illinois Restaurant Association to work as a food server during a special event, "Taste of Chicago." She worked from June 27 through July 9, 2006, the period for which she was hired. No further work was available for her after July 9, 2006.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes that the employer's protest should be deemed timely filed. Although the notice of claim was sent to the correct address, there was a delay in the employer's receipt of it. Because the notice of claim was not received until December 3, the employer could not have filed a protest by the November 27, 2006 due date. Due to the employer's late receipt of the notice, the protest filed on December 5, 2006 shall be deemed timely filed as required by Iowa Code section 96.6(2). Accordingly, the administrative law judge has jurisdiction over the separation issue.

Ms. Vasquez was hired to work for a specific period of time and worked until that time period had elapsed. Under Iowa law, her separation was not a disqualifying event. See 871 IAC 24.26(22). Therefore, no disqualification is imposed. The employer will be notified by the State of Illinois concerning any charges to its account.

DECISION:

The representative's decision dated December 7, 2006, reference 02, is hereby modified. The employer filed a timely protest to the claim. Ms. Vasquez was separated from employment for no disqualifying reason. Benefits are allowed, provided she satisfies all other conditions of eligibility.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/css