

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

JEREMY T ELLISON
Claimant

PANAMA TRANSFER INC
Employer

APPEAL 14A-UI-12785-JCT
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 11/09/14
Claimant: Respondent (4-R)

Iowa Code § 96.6(2) – Timeliness of Protest

STATEMENT OF THE CASE:

The employer filed an appeal from the December 2, 2014, (reference 02) unemployment insurance decision that found the employer's protest to the initial claim to be untimely. The parties were properly notified about the hearing. A telephone hearing was held on January 8, 2015. The claimant participated. The employer participated through Keith Richards. Department Exhibit D-1 was admitted.

ISSUE:

Did the employer file a timely protest?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The initial claim was sent to the employer's address of record in Panama, Iowa on November 13, 2014. The employer testified that mail from Des Moines can take from four to ten days, and that the local post office hours have been reduced to half days. The employer's owner screens mail, and in the office all but two days during the period between November 13, 2014 and the due date of November 24, 2014. On November 26, 2014, the employer received the notice of claim and responded via fax later that day.

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 employer did not have an opportunity to protest the notice of claim because the notice was not received in a timely fashion. Without timely notice of a disqualification, no meaningful opportunity for appeal exists. See *Smith v. Iowa Emp't Sec. Comm'n*, 212 N.W.2d 471, 472 (Iowa 1973). The employer filed the protest within the same day of receipt of the notice of claim. Therefore, the protest shall be accepted as timely.

The administrative law judge concludes that the employer filed its protest within the time period prescribed by the Iowa Employment Security Law because it did not receive the notice of claim until after its due date and responded the same day of receipt. However the administrative law judge suggests that, if possible, the employer designate someone to handle correspondence of a time sensitive nature in light of experience with recent postal service delays.

DECISION:

The December 2, 2014, (reference 02) decision is modified in favor of the appellant. The employer has filed a timely protest.

REMAND:

The separation issue is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination.

Jennifer L. Coe
Administrative Law Judge

Decision Dated and Mailed

jlc/pjs