

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

KIERAN M JUDGE
Claimant

BAD COMPANY INC
Employer

APPEAL 19A-UI-00123-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 12/02/18
Claimant: Respondent (4)**

Iowa Code Chapter 95 – Requalification
Iowa Code § 96.6(2) – Timeliness of Protest

STATEMENT OF THE CASE:

The employer filed a timely appeal from the December 26, 2018, (reference 02) decision that allowed benefits and found the protest untimely without having held a fact-finding interview pursuant to 871 IAC 24.9(2)b. No hearing was held as there was sufficient evidence in the appeal letter and accompanying documents to resolve the matter without testimony.

ISSUE:

Did the employer file a timely notice of protest, and if so has the claimant requalified for benefits since his separation from this employer?

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 December 4, 2018, but the post office placed it in the wrong mail box. The employer did not receive the notice of claim until after the due date for filing a notice of protest had already passed. The employer filed its protest on December 18, 2018, one day after they actually received the notice of claim. 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 employer did not have an opportunity to protest the notice of claim by the due date 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 Employment Security Commission*,

212 N.W.2d 471, 472 (Iowa 1973). The employer filed the protest within one day of receipt of the notice of claim. Therefore, the protest shall be accepted as timely.

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 December 26, 2018, (reference 02) 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/rvs