

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

DEVONTE T EDWARDS
Claimant

APPEAL NO. 19A-UI-03105-TN-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

AUTO SYSTEMS EXPERTS INC
Employer

OC: 03/03/19
Claimant: Respondent (1)

Iowa Code Section 96.6(2) – Timeliness of Protest

STATEMENT OF THE CASE:

Auto Systems Experts, Inc., filed a timely appeal from the April 9, 2019, reference 05, decision that allowed benefits to the claimant and found the employer's protest untimely. After due notice was issued, a hearing was held by telephone conference call on May 2, 2019. The claimant participated. The employer participated by Mr. Nathan Teague, Human Resource Assistant. The administrative file and Department's Exhibit D-1 were received into the hearing record.

ISSUE:

The issue is whether the employer filed timely protest on the claim of Devonte Edwards.

FINDINGS OF FACT:

Having reviewed the evidence in the record, the administrative law judge finds: The notice of claim on Devonte Edwards was mailed to employer's address of record on March 8 2019, and was received at the employer's address of record within the 10-day time limit. The notice of claim was then forwarded from the address of record to the company's new headquarter's address, but was not forwarded by the employer to its headquarters in time for the company to file a protest within ten days of the mailing date. The company had been bought by new owners, however, the new owners had not changed the address of record and did not do so until after the notice of claim filed on Devonte Edwards had been seen out by Iowa Workforce Development. The employer filed its protest on March 20, 2019, beyond the 10-day statutory limit.

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 employer has failed to protest within the time period prescribed by the Iowa Employment Security Law. The notice of claim filed was mailed to the employer's address of record and was received at its address of record allowing sufficient time for the employer to file a protest within the 10-day time limit. Although the company had been purchased by new owners, the new owners had not changed the address of record, which caused the delay in the notice of claim being received at the company's new headquarter's address. The administrative law judge therefore concludes the employer failed to effect a timely protest within the time prescribed by the Iowa Employment Security Law and the delay was not due to any Agency error, misinformation, or delay or other action of the United States Postal Service pursuant to 871 IAC 24.35(2). The administrative law judge further concludes that the employer failed to timely protest pursuant to Iowa Code § 96.6(2), and the administrative law judge lacks jurisdiction to make a determination with respect to the nature of the claimant's separation from employment. See *Beardslee v. IDJS*, 276 N.W.2d 373 (Iowa 1979); *Franklin v. IDJS*, 277 N.W.2d 877 (Iowa 1979) and *Pepsi-Cola Bottling Company v. Employment Appeal Board*, 465 N.W.2d 674 (Iowa App. 1990).

DECISION:

The representative's unemployment insurance decision dated April 9, 2019, reference 05, is affirmed. The employer has failed to file a timely protest, and the claimant is eligible to receive unemployment insurance benefits, provided that he meets all other eligibility requirements of Iowa law.

Terry P. Nice
Administrative Law Judge

Decision Dated and Mailed

rvs/rvs