

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ROBERT A RAMSEY
Claimant

APPEAL NO: 12A-UI-02954-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

GOFF AUTO & RADIATOR REPAIR LLC
Employer

OC: 02/26/12
Claimant: Respondent (4)

Iowa Code § 96.6-2 – Timeliness of Protest
Iowa Code § 96.7-2-a(2) – Charges to Employer's Account

STATEMENT OF THE CASE:

The employer appealed an unemployment insurance decision dated March 15, 2012, reference 02, that concluded its protest could not be accepted because it was not filed timely. A telephone hearing was held on April 25, 2012. Proper notice of the hearing was given to the parties. The claimant failed to participate in the hearing. Richard Goff participated on behalf of the employer. Exhibit A-1 was admitted into evidence at the hearing.

ISSUES:

Did the employer file a timely protest of the claim?
Is the employer's account exempt from charge?

FINDINGS OF FACT:

The claimant worked as a mechanic for the employer from September 2010 to October 29, 2010. The employer discharged the claimant for excessive unexcused absenteeism on October 29, 2010. He was repeatedly late or absent for work. He received verbal warnings and a written warning after he was absent without notifying the employer. The final incident was on October 29, 2010, when the claimant returned late for lunch without any legitimate excuse.

After his employment with the employer ended, the claimant worked and earned more than 10 times his weekly benefits in subsequent employment.

A notice of claim was mailed to the employer's address of record on February 28, 2012. The notice of claim stated that any protest of the claim had to be faxed or postmarked by the due date of March 9, 2012. The employer's protest was faxed on March 13, 2012. Richard Goff, the owner of the business did not receive the notice of claim until March 12, 2012, because he had been out of town. The business is a sole proprietorship and Goff has only one employee who was also away from work while Goff was out of town. Goff found the notice of claim when he returned to the business on March 12, 2012, and he prepared and faxed the protest on March 13, 2012.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the employer filed a timely protest of the claimant's claim for unemployment insurance benefits. The law requires protests to be filed within 10 days after the notice of claim is mailed to the employer's last-known address. Iowa Code § 96.6-2

The protest is deemed timely because the employer did not receive notice of the claim until March 12, and he promptly filed the protest.

Iowa Code § 96.7-2-a(2) provides that the amount of benefits paid to an eligible claimant shall be charged against the account of the employers in the base period in the inverse chronological order in which the employment of the claimant occurred unless the claimant has been discharged for work-connected misconduct or voluntarily quit employment without good cause attributable to the employer or refused suitable work without good cause.

In this case, the employer's account is exempt from charge for any benefits paid to the claimant because the claimant was discharged for work-connected misconduct. The claimant is not disqualified based on this separation because the claimant worked and earned more than 10 times his weekly benefits in subsequent employment.

DECISION:

The unemployment insurance decision dated March 15, 2012, reference 02, is modified in favor of the employer. The employer filed a timely protest. The employer's account is exempt from charge. The claimant is not disqualified based on this separation from employment.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/pjs