

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**ELISHA D SIR LOUIS**  
Claimant

**KINZE MFG INC**  
Employer

**APPEAL 22A-UI-04552-AW-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 12/19/21  
Claimant: Respondent (2R)**

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Iowa Code § 96.6(2) – Timeliness of Protest

**STATEMENT OF THE CASE:**

Employer filed an appeal from the February 1, 2022 (reference 03) unemployment insurance decision that found employer's protest untimely. The parties were properly notified of the hearing. A telephone hearing was held on March 24, 2022. Claimant did not participate. Employer participated and was represented by Corporate Counsel Jay Grimes. Nikki Rubino, Human Resources Manager, was a witness for employer. No exhibits were admitted. Official notice was taken of the administrative record.

**ISSUE:**

Whether employer filed a timely protest.

**FINDINGS OF FACT:**

Having reviewed the evidence in the record, the administrative law judge finds:

The Notice of Claim was mailed to employer at its correct address on December 28, 2021. Employer received the Notice of Claim, which lists a due date of January 7, 2022. Employer filed its protest via State Identification Data Exchange System (SIDES) on January 7, 2022. Employer's protest was not received by Iowa Workforce Development (IWD). Employer logged onto SIDES on January 30, 2022 and saw that its protest was marked "pending" instead of "submitted." Employer resubmitted its protest via SIDES on January 30, 2022. IWD received employer's protest on January 30, 2022. Claimant's separation from employment has not yet been the subject of a Benefits Bureau initial interview and decision.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes:

Iowa Code § 96.6(2) provides:

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.

Iowa Admin. Code r. 871-24.35(1) provides:

1. Except as otherwise provided by statute or by division rule, any payment, appeal, application, request, notice, objection, petition, report or other information or document submitted to the division shall be considered received by and filed with the division:

(a) If transmitted via the United States Postal Service on the date it is mailed as shown by the postmark, or in the absence of a postmark the postage meter mark on the envelope in which it is received; or if not postmarked or postage meter marked or if the mark is illegible, on the date entered on the document as the date of completion.

(b) If transmitted via the State Identification Data Exchange System (SIDES), maintained by the United States Department of Labor, on the date it was submitted to SIDES.

(c) If transmitted by any means other than [United States Postal Service or the State Identification Data Exchange System (SIDES)], on the date it is received by the division.

Iowa Admin. Code r. 871-24.35(2) provides:

2. The submission of any payment, appeal, application, request, notice, objection, petition, report or other information or document not within the specified statutory or regulatory period shall be considered timely if it is established to the satisfaction of the division that the delay in submission was due to division error or misinformation or to delay or other action of the United States postal service.

Employer submitted its protest via SIDES on the due date. IWD's failure to receive the protest is a result of division error. Employer's protest is considered timely.

**DECISION:**

The February 1, 2022 (reference 03) unemployment insurance decision is reversed. Employer's protest was timely.

**REMAND:**

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



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Adrienne C. Williamson  
Administrative Law Judge  
Unemployment Insurance Appeals Bureau  
Iowa Workforce Development  
1000 East Grand Avenue  
Des Moines, Iowa 50319-0209  
Fax (515)478-3528

March 31, 2022

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Decision Dated and Mailed

acw/ACW