

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DAVID E THOMPSON
Claimant

APPEAL NO. 09A-UI-03419-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CURLY'S FOODS
Employer

OC: 02/01/09
Claimant: Respondent (1)

Section 96.6-2 – Timely Protest

STATEMENT OF THE CASE:

Curley's Foods filed a timely appeal from an unemployment from an unemployment insurance decision dated February 26, 2009, reference 02, that allowed benefits to David E. Thompson upon a finding that the employer's protest was untimely. Due notice was issued for a telephone to be held March 16, 2009. At the time of the hearing the employer's witness elected to rely upon the testimony she had given in a similar case, 09A-UI-03418-AT, involving a different claimant. Under these circumstances, it was unnecessary to take testimony from Mr. Thompson.

ISSUE:

Has the employer filed a timely protest?

FINDINGS OF FACT:

Having examined all matters of record, the administrative law judge finds: David E. Thompson filed a claim for unemployment insurance benefits during the week of February 1, 2009. On February 10, 2009 Iowa Workforce Development mailed a Notice of Claim to Curly's Foods, advising the employer that a response was due not later than February 20, 2009. The employer received the Notice of Claim on or about February 19, 2009. The person responsible for filing the protest was ill on February 20 and February 23, 2009. The protest was filed on February 24, 2009.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the employer has filed a timely protest. It has not. Iowa Code section 96.6-2 gives employers ten days from the date of a Notice of Claim to file a response known as a protest. Additional time may be granted only if the final day for filing the protest falls on a Saturday, Sunday or legal holiday or if the delay is the fault of the U.S. Postal Service or Iowa Workforce Development. The evidence in this record persuades the administrative law judge that the delay was for a reason not covered by any of the legal exceptions.

DECISION:

The unemployment insurance decision dated February 26, 2009, reference 02, is affirmed. The claimant is entitled to receive unemployment insurance benefits, provided he is otherwise eligible. The employer cannot be relieved of charges.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

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