

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ELTON LEWIS

Claimant

APPEAL NO. 12A-UI-07602-MT

**ADMINISTRATIVE LAW JUDGE
DECISION**

HEARTLAND EXPRESS INC OF IOWA

Employer

OC: 10/30/11

Claimant: Respondent (2R)

Section 96.6-2 – Timeliness of Protest

STATEMENT OF THE CASE:

The employer appealed the representative's decision dated June 19, 2012, reference 01, that concluded it failed to file a timely protest regarding the claimant's separation of employment on October 26, 2011, and no disqualification of unemployment insurance benefits was imposed. A hearing was scheduled and held on July 19, 2012, pursuant to due notice. Claimant did not participate. Employer participated by Dave Dalmasso, Human Resource Representative. Exhibit One was admitted into evidence.

ISSUE:

The issue in this matter is whether the employer's protest is timely.

FINDINGS OF FACT:

The administrative law judge, having considered all of the evidence in the record, finds that: The claimant's notice of claim was mailed to the employer's address of record on November 04, 2011, and received by the employer within ten days. The notice of claim contains a warning that any protest must be postmarked or returned not later than ten days from the initial mailing date. The employer filed a fax protest June 7, 2012, which is not within the ten-day period. Employer has proof that they faxed the protest form November 7, 2011. No indication was found that the fax did not go through November 7, 2011.

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 has shown good cause for not complying with the jurisdictional time limit. Therefore, the administrative law judge is within jurisdiction to entertain any protest regarding

the separation from employment. Employer has proof that the form was faxed on November 7, 2011 which is a timely protest. There is no evidence to the contrary.

DECISION:

The decision of the representative dated June 19, 2012, reference 01, is reversed and remanded for a fact-finding hearing on the separation issue.

Marlon Mormann
Administrative Law Judge

Decision Dated and Mailed

mdm/pjs