

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ZACH A WILLIAMSON
Claimant

APPEAL NO. 12A-UI-14205-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**AVENTURE STAFFING & PROFESSIONAL
SERVICES**
Employer

OC: 06/10/12
Claimant: Respondent (2/R)

Section 96.6-2 – Timeliness of Protest

STATEMENT OF THE CASE:

Aventure Staffing & Professional Services (employer) appealed a representative's November 29, 2012 decision (reference 03) that allowed unemployment insurance benefits to Zach Williamson (claimant) because it found the protest untimely. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for January 7, 2013. The claimant participated personally. The employer participated by Kayla Neuhaufen, Human Resources Representative. Exhibit D-1 and One were admitted in evidence.

ISSUE:

The issue is whether the protest was filed in a timely manner.

FINDINGS OF FACT:

Having reviewed the evidence in the record, the administrative law judge finds: The claimant's notice of claim was mailed to the employer's address of record on July 6, 2012, and received by the employer within ten days. The notice of claim contains a warning that any protest must be postmarked, faxed or returned not later than ten days from the initial mailing date. The employer did file a protest on July 11, 2012, and received confirmation that the fax was sent to the Agency but the Agency did not issue a decision. On November 12, 2012, the employer notified the Agency that it filed a protest on July 11, 2012, but it had not received a decision. The Agency considered the November 12, 2012, letter to be the employer's protest.

REASONING AND CONCLUSIONS OF LAW:

The issue to be considered in this appeal is whether the employer's protest is timely. The administrative law judge determines it is.

Iowa Code section 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. The representative shall promptly examine the claim and any protest, take the initiative to ascertain relevant information concerning the claim, and, on the basis of the facts found by the representative, shall determine whether or not the claim is valid, the week with respect to which benefits shall commence, the weekly benefit amount payable and its maximum duration, and whether any disqualification shall be imposed. The claimant has the burden of proving that the claimant meets the basic eligibility conditions of section 96.4. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to section 96.5, except as provided by this subsection. The claimant has the initial burden to produce evidence showing that the claimant is not disqualified for benefits in cases involving section 96.5, subsection 10, and has the burden of proving that a voluntary quit pursuant to section 96.5, subsection 1, was for good cause attributable to the employer and that the claimant is not disqualified for benefits in cases involving section 96.5, subsection 1, paragraphs "a" through "h". Unless the claimant or other interested party, after notification or within ten calendar days after notification was mailed to the claimant's last known address, files an appeal from the decision, the decision is final and benefits shall be paid or denied in accordance with the decision. If an administrative law judge affirms a decision of the representative, or the appeal board affirms a decision of the administrative law judge allowing benefits, the benefits shall be paid regardless of any appeal which is thereafter taken, but if the decision is finally reversed, no employer's account shall be charged with benefits so paid and this relief from charges shall apply to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

The employer timely protested the notice of claim. Therefore, the protest shall be accepted as timely. The issue of the claimant's separation from employment is remanded for determination.

DECISION:

The November 29, 2012, reference 03, decision is reversed. Employer has filed a timely protest. The issue of the claimant's separation from employment is remanded for determination.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/css