

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

NATHAN DRAPER
Claimant

APPEAL NO: 13A-UI-02729-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**ONE LTD
CITY AND NATIONAL EMPLOYMENT**
Employer

OC: 10/07/12
Claimant: Respondent (4)

Iowa Code § 96.6-2 - Timeliness of Protest

STATEMENT OF THE CASE:

One, Ltd. (employer) appealed an unemployment insurance decision dated February 27, 2013, reference 02, which held it failed to file a timely protest regarding the claimant's separation of employment on October 30, 2011 and no disqualification of unemployment insurance benefits was imposed. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on April 4, 2013. The claimant did not comply with the hearing notice instructions and did not call in to provide a telephone number at which he could be contacted, and therefore, did not participate. The employer participated through Jessica Koenig, Staffing Manager. Based on the evidence, the arguments of the party, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

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

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and 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 October 15, 2012. The protest was due on October 25, 2012. The employer received the notice of claim and faxed a protest on October 22, 2012 but it was not received by Iowa Workforce. The employer received the 2012 fourth quarterly statement of charges mailed on February 8, 2013 and filed a timely appeal on February 25, 2013.

The claimant has requalified for benefits since the separation from the employer.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code § 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 filed a protest in a timely manner on October 22, 2012 but the agency did not receive the fax transmission. Immediately upon receipt of information to that effect, the protest was re-filed. Therefore, the protest shall be accepted as timely.

The administrative law judge further concludes that the claimant has requalified for benefits since the separation from this employer. Accordingly, benefits are allowed and the account of the employer shall not be charged.

DECISION:

The employer's protest is timely. The unemployment insurance decision dated February 27, 2013, reference 02, is modified in favor of the appellant. The claimant has requalified for benefits since the separation. Benefits are allowed, provided the claimant is otherwise eligible. The employer's account shall not be charged.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/css