

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

**BRANDON R WILEY**  
Claimant

**APPEAL NO: 19A-UI-03179-JC-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**BLUELINE INVESTMENTS LLC**  
Employer

**OC: 12/02/18**  
**Claimant: Respondent (2R)**

Iowa Code § 96.6(2) – Timeliness of Protest

**STATEMENT OF THE CASE:**

The employer filed an appeal from the April 9, 2019, (reference 01) unemployment insurance decision that found the protest untimely and allowed benefits. After due notice was issued, a hearing was held by telephone conference call on May 6, 2019. The claimant did not respond to the notice of hearing to furnish a phone number with the Appeals Bureau and did not participate in the hearing. The employer participated by Richard Vale, owner.

Department's Exhibit D-1 and Employer Exhibit A were received. The administrative law judge took official notice of the administrative record, including the Notice of Claim and protest. Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**NOTE TO EMPLOYER:** To become a SIDES E-Response participant, you may send an email to [iwd-sidesinfo@iwd.iowa.gov](mailto:iwd-sidesinfo@iwd.iowa.gov). To learn more about SIDES, visit <http://info.uisides.org>.

**ISSUE:**

Is the employer's protest timely?

**FINDINGS OF FACT:**

Having reviewed the evidence in the record, the administrative law judge finds: The claimant's notice of claim was mailed to employer's address of record on March 14, 2019, and contained a warning that the employer protest response is due ten days from the initial notice date. The response due date was March 25, 2019. The employer did not file a protest response until April 2, 2019, (Department Exhibit D-1) which is after the ten-day period had expired.

The employer has had periodic issues with mail and on March 22, 2019, aware it was not receiving mail dating back to February 2019, (Employer Exhibit A). On March 28, 2019, the employer received a large packet of delayed mail, including the notice of claim (Employer Exhibit A). Mr. Vale responded to the notice of claim and mailed it four days later.

The claimant's August 31, 2018, separation from employment has not yet been the subject of a Benefits Bureau fact-finding interview.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes that employer has filed a timely protest.

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 did not have an opportunity to protest the notice of claim because the notice was not received in a timely fashion. Without timely notice of a disqualification, no meaningful opportunity for appeal exists. See *Smith v. Iowa Emp't Sec. Comm'n*, 212 N.W.2d 471, 472 (Iowa 1973). The employer filed the protest within three days of receiving the notice of claim. Therefore, the protest shall be accepted as timely. **REMAND:** The separation issue is remanded to the Benefits Bureau of Iowa Workforce Development for a fact-finding interview and unemployment insurance decision.

**DECISION:**

The April 9, 2019, (reference 01) unemployment insurance decision is reversed. The employer has filed a timely protest. **REMAND:** The separation issue is remanded to the Benefits Bureau of Iowa Workforce Development for a fact-finding interview and unemployment insurance decision.

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Jennifer L. Beckman  
Administrative Law Judge

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Decision Dated and Mailed

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