

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**MONIQUE M TAYLOR**  
Claimant

**SEDONA STAFFING INC**  
Employer

**APPEAL 20A-UI-12119-SC-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 04/05/20**  
**Claimant: Respondent (2/R)**

Iowa Code § 96.6(2) – Timeliness of Protest

**STATEMENT OF THE CASE:**

On October 1, 2020, Sedona Staffing, Inc. (employer) filed an appeal from the September 24, 2020, reference 07, unemployment insurance decision that found the protest untimely and allowed Monique M. Taylor (claimant) to receive benefits, if she was otherwise eligible. After due notice was issued, a hearing was scheduled to be held by telephone conference call on November 30, 2020. The employer registered for the hearing; however, no hearing was held as there was sufficient evidence in the appeal letter and administrative record to resolve the matter without testimony.

**ISSUE:**

Is the employer's protest timely?

**FINDINGS OF FACT:**

Having reviewed the evidence in the record, the administrative law judge finds: The claimant separated from employment on December 2, 2019 and filed a claim for benefits effective April 5, 2020. The claimant's weekly benefit amount is \$242.00. The administrative record shows the claimant did not earn more than \$2,420.00 in insured wages following the separation and prior to filing the claim for benefits.

The notice of claim was mailed to employer's address of record on April 9, and was received by the employer within ten days. The notice of claim contains a warning that the employer protest response is due ten days from the initial notice date and gave a response deadline of April 20. The administrative record shows the agency received the employer's protest on April 20, in which the employer reported the claimant voluntarily quit.

Whether the claimant's separation from employment qualifies her for unemployment insurance benefits has not yet been investigated or adjudicated by the Benefits Bureau.

## REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the employer filed a timely protest to the claimant's receipt of benefits.

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.

Iowa Admin. Code r. 871-24.35(2) provides:

Date of submission and extension of time for payments and notices.

(2) The submission of any payment, appeal, application, request, notice, objection, petition, report or other information or document not within the specified statutory or regulatory period shall be considered timely if it is established to the satisfaction of the division that the delay in submission was due to division error or misinformation or to delay or other action of the United States postal service.

a. For submission that is not within the statutory or regulatory period to be considered timely, the interested party must submit a written explanation setting forth the circumstances of the delay.

b. The division shall designate personnel who are to decide whether an extension of time shall be granted.

c. No submission shall be considered timely if the delay in filing was unreasonable, as determined by the department after considering the circumstances in the case.

d. If submission is not considered timely, although the interested party contends that the delay was due to division error or misinformation or delay or other action of the United States postal service, the division shall issue an appealable decision to the interested party.

The law provides that all interested parties shall be promptly notified about an individual filing a claim. The parties have ten days from the date of mailing the notice of claim to protest payment of benefits to the claimant. Iowa Code § 96.6(2). Another portion of Iowa Code § 96.6(2) dealing with timeliness of an appeal from a representative's decision states an appeal must be filed within ten days after notification of that decision was mailed. In addressing an issue of timeliness of an appeal under that portion of this Code section, the Iowa Supreme Court has held that this statute clearly limits the time to do so, and compliance with the appeal notice provision is mandatory and jurisdictional. *Beardslee v. Iowa Dep't of Job Serv.*, 276 N.W.2d 373 (Iowa 1979). The reasoning and holding of the Beardslee court is considered controlling on the portion of Iowa Code § 96.6(2) that deals with the time limit to file a protest after the notice of claim has been mailed to the employer.

In this case, the employer submitted the protest by the deadline. Any delay in processing the protest was due to agency error pursuant to Iowa Admin. Code r. 871-24.35(2). As the employer timely filed the protest, whether the claimant's separation qualifies her for benefits is remanded to the Benefits Bureau for a fact-finding interview and unemployment insurance decision.

**DECISION:**

The September 24, 2020, reference 07, 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.

A handwritten signature in dark ink, appearing to read "Stephanie R. Callahan", with a long horizontal flourish extending to the right.

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Stephanie R. Callahan  
Administrative Law Judge

December 7, 2020  
Decision Dated and Mailed

src/mh