

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**KRISTIN M SCHULZ**  
Claimant

**APPEAL NO. 07A-UI-00278-LT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**SCOTTISH RITE PARK INC**  
Employer

**OC: 12-17-06 R: 02  
Claimant: Respondent (4)**

Iowa Code § 96.6(2) – Timeliness of Protest  
Iowa Code Chapter 95 – Requalification

**STATEMENT OF THE CASE:**

The employer filed a timely appeal from the January 4, 2007, reference 05, decision that allowed benefits and found the protest untimely. After due notice was issued, a hearing was held by telephone conference call on January 24, 2007. The claimant did not participate. The employer participated through Nicole Hammer. Department's Exhibit D-1 was received.

**ISSUE:**

The issue is whether employer's protest is 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 the employer's address of record on December 21, 2006. The employer did protest on December 23, 2006 but both pages of the fax were not received at Iowa Workforce Development and employer re-faxed the protest on January 3, 2007. The claimant has requalified for benefits since the separation from the employer.

**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 filed a protest in a timely manner on December 23 but the agency did not receive both pages. 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 January 4, 2007, reference 05, decision is modified in favor of the appellant. The employer has filed a timely protest, and the claimant has requalified for benefits since the separation. Benefits are allowed, provided the claimant is otherwise eligible. The account of the employer shall not be charged.

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Dévon M. Lewis  
Administrative Law Judge

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Decision Dated and Mailed

dml/kjw