

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

REED BOWEN
Claimant

APPEAL NO. 08A-UI-04658-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

SPORTS WEST INC
Employer

**OC: 11/25/07 R: 03
Claimant: Respondent (4)**

Section 96.6-2 - Timeliness of Protest

STATEMENT OF THE CASE:

Sports West, Inc. (employer) appealed an unemployment insurance decision dated May 14, 2008, reference 01, which held it failed to file a timely protest regarding the claimant's separation of employment on July 15, 2007 and no disqualification of unemployment insurance benefits was imposed. Due notice was issued scheduling the matter for a telephone hearing to be held May 30, 2008. Because a decision fully favorable to the parties could be made based on the record as it stood, a hearing was deemed unnecessary.

ISSUE:

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

FINDINGS OF FACT:

The administrative law judge, having reviewed 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 November 28, 2007. The employer filed a protest on December 3, 2007, but it was not received by Iowa Workforce Development. The employer was not aware its account was subject to charge until it received the first quarterly statement of charges for 2008, which was mailed on May 9, 2008. The employer promptly filed an appeal. 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 administrative law judge concludes that the employer filed a protest in a timely manner on December 3, 2007. The Agency did not receive the fax transmission, but the employer was

unaware of this fact. The employer immediately filed an appeal to protest charges to its account upon receipt of the first quarterly statement of charges for 2008.

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 May 14, 2008, reference 01, 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.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/kjw