

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

**JONATHAN ROSADO**  
Claimant

**ADVANCE SERVICES INC**  
Employer

**APPEAL 17A-UI-03276-JCT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 12/11/16**  
**Claimant: Respondent (2R)**

Iowa Code § 96.6(2) - Timeliness of Protest

**STATEMENT OF THE CASE:**

The employer filed a timely appeal from the March 20, 2017, (reference 01) unemployment insurance decision that allowed benefits and found the protest untimely. After due notice was issued, a hearing was held on April 18, 2017. The claimant did not respond to the notice of hearing to furnish a phone number to the Appeals Bureau and did not participate. The employer participated through Melissa Lewien, risk management. Department's Exhibit D-1 was received. The administrative law judge took official notice of the administrative records. No fact-finding documents were available. 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.

**ISSUE:**

Is the employer's protest timely?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant's notice of claim was electronically mailed to the employer via SIDES on December 14, 2016. The employer filed its protest on December 15, 2016, and received confirmation of successful transmission (Department Exhibit D-1). The claimant's October 31, 2016, separation from employment has not yet been the subject of a Benefits Bureau fact-finding interview. The claimant also resides in New York, and the administrative record is unclear as to whether he has requalified since separation from this employer.

**REASONING AND CONCLUSIONS OF LAW:**

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

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 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.

The employer filed a protest in a timely manner on December 15, 2016, (Department Exhibit D-1) but the agency did not receive the fax transmission. Therefore, the protest shall be accepted as timely.

**DECISION:**

The March 20, 2017, (reference 01) unemployment insurance decision is reversed. The employer has filed a timely protest.

**REMAND:** The separation/requalification 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

jlb/rvs