

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

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Appeal Number: 06A-UI-05944-HT
OC: 04/09/06 R: 03
Claimant: Respondent (2-R)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.6-2 - Timeliness of Protest

STATEMENT OF THE CASE:

The employer appealed a representative's decision dated May 24, 2006, reference 03, that concluded it failed to file a timely protest regarding the claimant's separation of employment on April 4, 2006, and no disqualification of unemployment insurance benefits was imposed. A hearing was scheduled and held on June 26, 2006, pursuant to due notice. The claimant participated on her own behalf. The employer participated by Dr. Douglas Moore. Exhibit D-1 was admitted into the record.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witnesses and having 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 April 12, 2006, and received by the employer

within ten days. The notice of claim contains a warning that any protest must be postmarked or returned not later than ten days from the initial mailing date. The employer submitted a response to the notice on April 19, 2006, within the ten-day time period required by law. The employer did not fill out the form properly to note a specific cause for disqualification. The attached letter was also vague and non-specific, and failed to state clearly that the claim for benefits was being protested.

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 failed to properly fill out the documentation sent to him in order to put Iowa Workforce Development on notice he was protesting the payment of benefits to the claimant. However, the administrative law judge feels the fact the notice was returned with "severance pay" noted on its face should be sufficient notice that a separation had taken place and a fact-finding interview was in order. The employer's protest shall be accepted as timely.

The matter of the claimant's separation should be remanded to the Claims Section for determination.

DECISION:

The decision of the representative dated May 24, 2006 reference 03, is reversed. The employer filed a timely protest and it shall be accepted. The issue of the claimant's separation from employment is remanded to the Claims Section for determination.

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