

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JUSTIN J STUIT
Claimant

APPEAL NO. 08A-UI-11182-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

INTERSTATES ENGINEERING INC
Employer

OC: 11/02/08 R: 03
Claimant: Respondent (1)

Section 96.6-2 – Timely Protest

STATEMENT OF THE CASE:

An appeal was filed from an unemployment insurance decision dated November 21, 2008, reference 02, that allowed benefits to Justin J. Stuit upon a finding that the employer's protest was untimely. After due notice was issued, a telephone hearing was held December 18, 2008. Mr. Stuit participated on his own behalf. Heather Hoogendoorn and Valerie Hubers participated for the employer. Exhibit D-1 was admitted into evidence.

ISSUE:

Has the employer filed a timely protest?

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: Justin J. Stuit filed a claim for unemployment insurance benefits during the week of November 2, 2008. On November 7, 2008, a Notice of Claim was mailed to Interstates Engineering, Inc. with instructions that a response must be returned on or before November 17, 2008.

Human Resources Coordinator Heather Hoogendoorn is responsible for handling matters such as this. The Notice of Claim did not reach her desk until November 18, 2008. It had been delivered to the company earlier, but it had not been forwarded to Ms. Hoogendoorn. The employer filed its protest on November 18, 2008.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the employer has filed a timely appeal. It has not.

Iowa Code section 96.6-2 gives an employer ten days from the date of a Notice of Claim to file its response. The evidence in the record persuades the administrative law judge that the Notice of Claim was delivered to the employer in time for a protest to be returned on or before November 17, 2008. The delay in filing the protest was internal, not the fault of

Ms. Hoogendoorn, but also not the fault of the Agency or of the U.S. Postal Service. Under these circumstances, the administrative law judge concludes that the protest was untimely and that the administrative law judge thus has no authority to relieve the employer of charges for benefits paid to Mr. Stuit.

DECISION:

The unemployment insurance decision dated November 21, 2008, reference 02, is affirmed. The claimant is entitled to receive unemployment insurance benefits. The employer cannot be relieved of charges for those benefits because its protest was not filed within the time limits set by statute.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs