

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TESSA LYNCH
Claimant

APPEAL NO: 09A-UI-11978-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TELUWUT II LLC
Employer

OC: 03/01/09
Claimant: Respondent (4)

Iowa Code § 96.6-2 - Timeliness of Protest

STATEMENT OF THE CASE:

Teluwut II, LLC (employer) appealed an unemployment insurance decision dated August 18, 2009, reference 04, which held it failed to file a timely protest regarding the claimant's separation of employment on December 16, 2007 and no disqualification of unemployment insurance benefits was imposed. Due notice was issued scheduling the matter for a telephone hearing to be held September 3, 2009. Because a decision fully favorable to the parties could be made based on the record as it stood, a hearing was deemed unnecessary. Based on the evidence and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

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 March 6, 2009. The employer received the notice of claim and filed a protest on March 12, 2009. The protest was due on March 16, 2009. Iowa Workforce did not receive the employer's protest until August 14, 2009.

The claimant has requalified for benefits since the separation from the employer.

REASONING AND CONCLUSIONS OF LAW:

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 employer filed a protest in a timely manner on March 12, 2009 but the agency did not receive the fax transmission. 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 employer's protest is timely. The unemployment insurance decision dated August 18, 2009, reference 04, is modified in favor of the appellant. The claimant has requalified for benefits since the separation. Benefits are allowed, provided the claimant is otherwise eligible. The employer's account shall not be charged.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/pjs