

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**STEVEN L FITCH**  
Claimant

**APPEAL NO. 09A-UI-00402-NT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**BOMGAARS SUPPLY INC**  
Employer

**OC: 12/21/08 R: 01  
Claimant: Respondent (4)**

Section 96.6-2 – Timely Protest

**STATEMENT OF THE CASE:**

The employer filed a timely appeal from an unemployment insurance decision dated January 8, 2009, reference 01, that allowed benefits to the claimant but did not relieve the employer of charges for benefits upon a finding that the employer's protest had been untimely. After reviewing all matters of record, the administrative law judge concludes that a formal hearing is not needed.

**ISSUE:**

Has the employer filed a timely protest?

**FINDINGS OF FACT:**

Having examined all matters of record, the administrative law judge finds: On January 5, 2009 the employer attempted to fax a protest to Iowa Workforce Development concerning the claimant's separation from employment and subsequent claim for unemployment insurance benefits. The fax did not go through because of a problem with the Agency's fax line.

After the end of his employment with Bomgaars but before filing his present claim for unemployment insurance benefits, the claimant earned more than ten times his weekly benefit amount in wages for insured work with subsequent employers.

**REASONING AND CONCLUSIONS OF LAW:**

The question is whether the protest can be accepted as timely. It can. Although the protest was not ultimately filed with the Agency until after the end of the ten-day period set by statute, the evidence persuades the administrative law judge that the delay was caused by a problem with the Agency's fax line. The protest was filed promptly after the problem had been resolved.

It will not be necessary to adjudicate the reason for the claimant's separation for employment. Whatever the reason for the separation, the claimant has requalified by earning ten times his

weekly benefit amount in wages for insured work with subsequent employers. This employer's account may be relieved of charges.

**DECISION:**

The unemployment insurance decision dated January 8, 2009, reference 01, is modified. The claimant is entitled to receive unemployment insurance benefits, provided he is otherwise eligible. The employer's account may be relieved of charges because the protest was filed on a timely basis.

---

Terence P. Nice  
Administrative Law Judge

---

Decision Dated and Mailed

css/css