

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

DOUGLAS L KESSLER
Claimant

APPEAL 17A-UI-06877-SC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

RED OAK HARDWARE HANK
Employer

**OC: 01/01/17
Claimant: Respondent (2R)**

Iowa Code § 96.6(2) – Timeliness of Protest

STATEMENT OF THE CASE:

Red Oak Hardware Hank (employer) filed an appeal from the June 30, 2017, reference 01, unemployment insurance decision that found the protest untimely and allowed benefits. After due notice was issued, a hearing was scheduled to be held by telephone conference call on July 26, 2017. Douglas L. Kessler (claimant), his parents Sandy and Joseph Kessler, and Mark Jackson on behalf of the employer responded to the hearing notice but no hearing was held as the information in the appeal letter and administrative record was sufficient to make a determination without additional testimony.

ISSUE:

Is the employer's protest timely?

FINDINGS OF FACT:

Having reviewed the evidence in the record, the administrative law judge finds: The claimant filed his initial claim for benefits on January 1, 2017. On January 9, 2017 a Notice of Claim was mailed to the employer's address with a warning that a protest must be filed by January 19, 2017. The employer filed its protest with the agency on January 11, 2017.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes that employer filed a timely protest to the claimant's claim for benefits.

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.

Another portion of this same Code section dealing with timeliness of an appeal from a representative's decision states that such 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 held that this statute prescribing the time for notice of appeal clearly limits the time to do so, and that compliance with the appeal notice provision is mandatory and jurisdictional. *Beardslee v. IDJS*, 276 N.W.2d 373 (Iowa 1979).

The administrative record shows the employer filed its protest within the 10 days required. The employer's protest is timely.

DECISION:

The June 30, 2017, reference 01, unemployment insurance decision is reversed. The employer filed a timely protest.

REMAND:

The separation issue is remanded to the Benefits Bureau of Iowa Workforce Development for a fact-finding interview and unemployment insurance decision.

Stephanie R. Callahan
Administrative Law Judge

Decision Dated and Mailed

src/scn