

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

OLIVIA A NISTOR
Claimant

ANTONELLA'S TRATTORIA
Employer

APPEAL 14A-UI-11807-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 10/05/14
Claimant: Respondent (4)**

Iowa Code § 96.6(2) – Timeliness of Protest

STATEMENT OF THE CASE:

The employer filed a timely appeal from the November 4, 2014 (reference 02) decision that allowed benefits and found the protest untimely, without having held a fact-finding interview pursuant to 871 IAC 24.9(2)b. After reviewing the appellant's appeal letter and Iowa Work Force Development Department records letter, the administrative law judge determined that no additional testimony was needed and hearing was held.

ISSUE:

The issue is whether employer's protest is timely.

FINDINGS OF FACT:

Having reviewed the evidence in the record, the administrative law judge finds: The claimant's notice of claim was mailed to the employer's address of record on October 8, 2014 and received after October 20, 2014. The employer filed its protest on October 21, 2014 due to a delay caused by the United States Postal Service. 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 did not have an opportunity to protest the notice of claim by the due date because their protest was delayed by an error at the United States Post Office. The employer's notice of protest filed the protest within one day of the due date. 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 November 4, 2014 (reference 02) decision is modified in favor of the appellant. The employer has filed a timely protest and the claimant has requalified for benefits since the separation. Benefits are allowed, provided the claimant is otherwise eligible. The account of the employer shall not be charged.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

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