

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

GRETCHEN L MAIFELD
Claimant

APPEAL NO. 08A-UI-07537-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

SWIFT & COMPANY
Employer

OC: 07/13/08 R: 02
Claimant: Respondent (2/R)

Section 96.6-2 – Timeliness of Protest

STATEMENT OF THE CASE:

Swift & Company filed an appeal from the August 13, 2008, reference 03, decision that allowed benefits and found the employer's protest untimely. After due notice was issued, a hearing was held by telephone on September 3, 2008. The claimant did participate. The employer participated through Beth Nichols. Exhibits One and D-1 were received into evidence.

ISSUE:

The issue in this matter is whether the employer filed a timely protest.

FINDINGS OF FACT:

Having reviewed all of 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 July 18, 2008. The employer did file its protest on July 28, 2008 at 2:45 p.m. that day and received a confirmation that the fax had been received by the recipient. The issue of the claimant's separation from employment has not yet been investigated or adjudicated at the Claims level.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 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 administrative law judge concludes that the employer filed its protest within the time period prescribed by the Iowa Employment Security Law. The employer filed its protest by facsimile report and received a report that the facsimile had been received by Iowa Workforce Development within ten days of the evidence mailing date to the employer. Based upon Exhibit One, the administrative law judge concludes that there is sufficient evidence of intent to

protest potential charges to the employer's account. The issue of Ms. Maifeld's separation from employment is remanded to the Claims Section of Iowa Workforce Development for initial investigation and determination.

DECISION:

The August 13, 2008, reference 03, decision is reversed. The employer has filed a timely protest. The issue of the claimant's separation from employment is remanded to the Claims Section of Iowa Workforce Development for initial investigation and determination.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

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