

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**VICKY M MATHISON**  
Claimant

**APPEAL NO. 11A-UI-11839-A**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**ACTION STAFFING SERVICES INC**  
Employer

**OC: 07/24/11**  
**Claimant: Respondent (1)**

Section 96.6-2 – Timely Protest

**STATEMENT OF THE CASE:**

Action Staffing Services, Inc. filed a timely appeal from an unemployment insurance decision dated September 2, 2011, reference 01, that allowed benefits to Vicky M. Mathison and which ruled that the employer's protest was untimely. After due notice was issued, a telephone hearing was held October 27, 2011, with Ms. Mathison participating. Accounting and Human Resources Manager Rita Weaver participated for the employer. Exhibit D-1 was admitted into evidence.

**ISSUE:**

Has the employer filed a timely protest?

**FINDINGS OF FACT:**

Vicky M. Mathison filed a claim for unemployment insurance benefits effective July 24, 2011. On August 4, 2011, the Agency mailed a notice of claim to Action Staffing Services, Inc. The notice advised the employer that a response was due not later than August 15, 2011. The response was not sent to the Agency until August 30, 2011, because the person responsible for filing the response was out of the office.

**REASONING AND CONCLUSIONS OF LAW:**

Iowa Code section 96.6-2 gives employers ten days from the date of a notice of claim to file a response, known as a protest. The Supreme Court of Iowa has ruled that the time limits in Iowa Code section 96.6-2 are jurisdictional. See Franklin v. Iowa Department of Job Service, 277 N.W.2d 877, 881 (Iowa 1979). In the absence of a timely appeal, the administrative law judge has no jurisdiction to grant relief to the employer.

The evidence in the record establishes that the protest was not returned within the time limit set by statute and that the delay was neither the fault of the United States Postal Service nor Iowa Workforce Development. Under these circumstances, the administrative law judge concludes that he lacks jurisdiction to grant relief to the employer.

**DECISION:**

The unemployment insurance decision dated September 2, 2011, reference 01, is affirmed. The claimant is entitled to receive unemployment insurance benefits, provided she is otherwise eligible. The employer cannot be relieved of charges.

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Dan Anderson  
Administrative Law Judge

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Decision Dated and Mailed

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