

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**BRUCE D ROBBINS**

Claimant

**APPEAL NO. 12A-UI-05574-H2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**AAALL STATES AUTO TRANSPORT**

Employer

**OC: 04-15-12**

**Claimant: Respondent (1)**

Iowa Code § 96.6(2) – Timeliness of Protest  
Iowa Code § 96.5(1) – Voluntary Leaving - Layoff

**STATEMENT OF THE CASE:**

The employer filed a timely appeal from the May 10, 2012, reference 03, decision that found the employer's protest untimely and allowed benefits. After due notice was issued, a hearing was held on June 11, 2012. The claimant did not participate. The employer did participate through P.J. Vaske, president.

**ISSUES:**

Did the employer file a timely notice of protest?

Was the claimant laid off due to lack of work?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a salesman, full-time, beginning in 2005 or 2006 through April 15, 2012, when he was laid off due lack of work resulting from a poor economy.

The employer did not receive the claimant's notice of claim form until May 7, 2012, after a response was due to the agency. The employer filed their notice of protest the day they received the notice of claim form from the agency.

**REASONING AND CONCLUSIONS OF LAW:**

The first issue is whether employer's protest is timely. The administrative law judge concludes it is.

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 employer did not have an opportunity to protest the notice of claim, because the notice was not received in a timely fashion. Without timely notice of a disqualification, no meaningful opportunity for appeal exists. See *Smith v. Iowa Employment Security Commission*, 212 N.W.2d 471, 472 (Iowa 1973). The employer filed the protest within one day of receipt of the notice of claim. Therefore, the protest shall be accepted as timely.

For the reasons that follow, the administrative law judge concludes the claimant was laid off due to a lack of work.

Iowa Code section 96.5-1 provides:

An individual shall be disqualified for benefits:

1. Voluntary quitting. If the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department.

Iowa Code section 96.4-1 provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

1. The individual has registered for work at and thereafter has continued to report at an employment office in accordance with such regulations as the department may prescribe. The provisions of this subsection shall be waived if the individual is deemed temporarily unemployed as defined in section 96.19, subsection 38, paragraph "c".

The claimant was laid off due, in part, to the poor economy. Therefore, the separation was attributable to a lack of work by the employer. Benefits are allowed.

**DECISION:**

The May 10, 2012 (reference 03) decision is affirmed. The employer filed a timely protest. The claimant was laid off due to a lack of work. Benefits are allowed, provided the claimant is otherwise eligible.

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Teresa K. Hillary  
Administrative Law Judge

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Decision Dated and Mailed

tkh/kjw