

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ALEX R HEIM**  
Claimant

**APPEAL NO. 17A-UI-07005-TNT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CIRCLE COMPUTER RESOURCES INC**  
Employer

**OC: 06/04/17**  
**Claimant: Respondent (1)**

Section 96.6(2) – Timeliness of Protests

**STATEMENT OF THE CASE:**

Circle Computer Resources, Inc., the employer, filed a timely appeal from a representative's decision dated July 5, 2017, reference 01, that allowed benefits to the claimant and found the employer's protest to be untimely. After due notice was issued, a hearing was held by telephone on July 28, 2017. Although notified, the claimant did not participate. The employer participated by Ms. Heidi Hromidko, Director of Human Resources.

**ISSUE:**

At issue in this matter is whether the employer filed a timely protest as required by law.

**FINDINGS OF FACT:**

The administrative law judge, having considered all of the evidence in the record, finds that: The claimant's notice of claim was mailed to the employer's address of record on June 12, 2017, and received by the employer within ten days. The notice of claim contains a warning that any protest must be postmarked, faxed or returned by June 22, 2017. The employer did not file a protest until June 23, 2017, which is after the ten-day period had expired.

The notice of claim was placed on the Human Resources' desk; however Ms. Hromidko was out of town at a business conference and did not return until June 23, 2017. On that day, Ms. Hromidko immediately completed the protest and returned it to Workforce Development, however the protest was returned beyond the ten-day statutory time limit.

Subsequent to the June 23, 2017 date that the employer filed its protest on the claim of Alex Heim, the employer has implemented changes to ensure that official correspondence is either forwarded or handled by other employee's in the absence of management.

**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.

Although sympathetic to the employer's situation, the administrative law judge concludes that the employer has failed to protest within the time period prescribed by the Iowa Employment Security Law. The delay was not due to any Agency error or misinformation or delay or other action by the US Postal Service pursuant to 871 IAC 24.35(2). The administrative law judge further concludes that the employer has failed to timely protest pursuant to Iowa Code 96.6 (2). The administrative law judge lacks jurisdiction to make a determination with respect to the nature of the claimant's separation from employment. See *Beardslee v. IDJS*, 276 N.W.2d 373 (Iowa 1979); *Franklin v. IDJS*, 277 N.W.2d 877 (Iowa 1979) and *Pepsi-Cola Bottling Company v. Employment Appeal Board*, 465 N.W.2d 674 (Iowa App. 1990).

**DECISION:**

The decision of the representative dated July 5, 2017, (reference 01), is affirmed. The employer has failed to file a timely protest, and the decision of the representative shall stand and remain in full force and effect.

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Terry P. Nice  
Administrative Law Judge

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Decision Dated and Mailed

tn/scn