

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**STACY J FINCH**  
Claimant

**TEMP ASSOCIATES-IOWA INC**  
Employer

**APPEAL 17A-UI-12328-H2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 07/09/17**  
**Claimant: RESPONDENT (2R)**

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Iowa Code § 96.6(2) - Timeliness of Protest

**STATEMENT OF THE CASE:**

The employer filed a timely appeal from the November 28, 2017, (reference 03) decision that found the protest untimely and allowed benefits. After due notice was issued, a hearing was held on December 21, 2017. The claimant did participate. The employer participated through Judy Rebik, Manager and Teresa Ray, Manager. Employer's Exhibit 1 was entered and received into the record.

**ISSUE:**

Did the employer file a timely notice of 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, 2017 and was received on July 20, 2017. The employer has submitted a copy of their e-mail, along with the attached notice of protest, sent into the agency on July 20, 2017 to protest the claimant's award of unemployment insurance benefits. For some reason the agency did not receive or process the employer's notice of protest. The employer only learned that the agency had not received or processed their notice of protest when on November 9, 2017 they received their third quarter 2017 statement of charges.

The issue of the claimant's separation from this employer has not yet been adjudicated at the claims level.

**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 submit a timely protest on July 20, 2017 but it was not received or process by the agency. See *Smith v. Iowa Employment Security Commission*, 212 N.W.2d 471, 472 (Iowa 1973). The employer filed the protest within two days of receipt of the notice of claim. Therefore, the protest shall be accepted as timely.

**DECISION:**

The November 28, 2017, (reference 03) decision is reversed. The employer filed a timely notice of protest. The timely appeal of the statement of charges is moot, pending the resolution of the claimant's separation from this employer by the claims section.

**REMAND:**

The issue of the reason for the separation is remanded to the claims section of Iowa Workforce Development for an initial investigation and determination.

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Teresa K. Hillary  
Administrative Law Judge

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Decision Dated and Mailed

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