

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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**MARWA DOLLY**  
Claimant

**SPURGEON MANOR INC**  
Employer

**APPEAL 15A-UI-01474-H2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 12/28/14  
Claimant: Respondent (4)**

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Iowa Code § 96.6(2) – Timeliness of Protest

**STATEMENT OF THE CASE:**

The employer filed a timely appeal from the January 28, 2015 (reference 04) decision that allowed benefits and found the protest untimely without having held a fact-finding interview pursuant to 871 IAC 24.9(2)b. no hearing was held as there was sufficient evidence in the appeal letter and accompanying documents to resolve the matter without testimony.

**ISSUE:**

The issue is whether employer's protest is timely.

**FINDINGS OF FACT:**

Having reviewed 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 January 2, 2015 and received after in a timely manner. The employer began using the new computer SIDES system and had issues with filing their protest. Once their issues were addressed they promptly filed the notice of protest on January 26, 2015. The employer was prevented by the SIDES system from filing a timely notice of protest. The claimant has re-qualified for benefits since the separation from the employer.

**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.

The employer did not have an opportunity to protest the notice of claim by the due date because the agency SIDES system would not allow them to file their notice of protest in a timely manner. 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 days of receipt of the notice of claim. Therefore, the protest shall be accepted as timely.

The administrative law judge further concludes that the claimant has re-qualified for benefits since the separation from this employer. Accordingly, benefits are allowed and the account of the employer shall not be charged.

**DECISION:**

The January 28, 2015 (reference 04) decision is modified in favor of the appellant. The employer has filed a timely protest and the claimant has re-qualified for benefits since the separation. Benefits are allowed, provided the claimant is otherwise eligible. The account of the employer shall not be charged.

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Teresa K. Hillary  
Administrative Law Judge

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Decision Dated and Mailed

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