

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**CHAD L ALLEN**  
Claimant

**APPEAL NO. 07A-UI-01488-AT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**MONGOOSE INC**  
**DBA MCDONALD'S RESTAURANT**  
Employer

**OC: 01-21-07 R: 01**  
**Claimant: Respondent (1)**

Section 96.6-2 – Timely Protest

**STATEMENT OF THE CASE:**

Mongoose, Inc. filed a timely appeal from an unemployment insurance decision dated February 7, 2007, reference 02, that allowed benefits to Chad L. Allen but did not relieve the employer of charges upon a finding that the employer's protest was not filed within the time limits set by statute. After due notice was issued, a telephone hearing was held February 27, 2007 with Owner Steve Gossage participating for the employer. Exhibit D-1, a copy of the employer's protest, was entered into the record. Mr. Allen did not participate in the hearing.

**ISSUE:**

Has the employer filed a timely protest?

**FINDINGS OF FACT:**

Having heard the testimony of the witness and having examined all of the evidence in the record, the administrative law judge finds: On January 25, 2007, Iowa Workforce Development mailed a Notice of Claim to Mongoose, Inc., advising the employer that its former employee Chad L. Allen had filed a claim for unemployment insurance benefits. The Notice advised the employer that a response was due on or before February 5, 2007. Manager Lyse Yanke completed a protest form on February 5, 2007. The Protest was not faxed to the agency until February 6, 2007.

**REASONING AND CONCLUSIONS OF LAW:**

The question is whether the evidence establishes that the employer filed a timely protest. It does not.

Iowa Code section 96.6-2 gives an employer ten days from the date that a Notice of Claim is mailed to file a protest. The Supreme Court of Iowa has ruled that the time limits set out 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 protest, the administrative law judge has no authority to relieve the employer of charges for benefits paid to Mr. Allen.

The evidence in the record establishes that the protest was faxed to the agency on February 6, 2007. The evidence does not establish that the delay was the fault of the U.S. Postal Service or of Iowa Workforce Development. The administrative law judge must conclude, that the protest was not filed within the time limits set by statute. He has no authority to grant the relief requested by the employer.

**DECISION:**

The unemployment insurance decision dated February 7, 2007, reference 02, is affirmed. The claimant is entitled to receive unemployment insurance benefits, provided he is otherwise eligible. The employer cannot be relieved of charges.

---

Dan Anderson  
Administrative Law Judge

---

Decision Dated and Mailed

pjs/kjw