

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**AMELIA E SIMMONS**

Claimant

**APPEAL NO. 17A-UI-07373-S1-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CASEY'S MARKETING COMPANY**

Employer

**OC: 11/27/16**

**Claimant: Respondent (2)**

Section 96.6-2 – Timeliness of Protest

**STATEMENT OF THE CASE:**

The employer filed a timely appeal from the July 11, 2017, reference 06, decision that allowed benefits and found the protest untimely. After due notice was issued, a hearing was held by telephone conference call on August 8, 2017. The claimant did not provide a telephone number for the hearing and, therefore, did not participate. The employer participated by Anthony Burgess, Manager of Claim Services. The employer offered and Exhibit 1 was received into evidence.

**ISSUE:**

The issue is whether the employer filed a timely protest.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant established a claim for unemployment insurance benefits effective November 27, 2016. The employer has opted to participate in the multistate SIDES program, and so a notification of claim was transmitted to the employer on December 2, 2016. The employer received the notice and filed a protest on the date it was due, December 15, 2016. The agency did not receive the transmission due to a computer error.

**REASONING AND CONCLUSIONS OF LAW:**

The first issue to be considered in this appeal is whether the employer's protest is timely. The administrative law judge determines it is.

Iowa Code section 96.6(2) provides:

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 representative shall promptly examine the claim and any protest, take the initiative to ascertain relevant information concerning the

claim, and, on the basis of the facts found by the representative, shall determine whether or not the claim is valid, the week with respect to which benefits shall commence, the weekly benefit amount payable and its maximum duration, and whether any disqualification shall be imposed. The claimant has the burden of proving that the claimant meets the basic eligibility conditions of section 96.4. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to section 96.5, except as provided by this subsection. The claimant has the initial burden to produce evidence showing that the claimant is not disqualified for benefits in cases involving section 96.5, subsections 10 and 11, and has the burden of proving that a voluntary quit pursuant to section 96.5, subsection 1, was for good cause attributable to the employer and that the claimant is not disqualified for benefits in cases involving section 96.5, subsection 1, paragraphs "a" through "h". Unless the claimant or other interested party, after notification or within ten calendar days after notification was mailed to the claimant's last known address, files an appeal from the decision, the decision is final and benefits shall be paid or denied in accordance with the decision. If an administrative law judge affirms a decision of the representative, or the appeal board affirms a decision of the administrative law judge allowing benefits, the benefits shall be paid regardless of any appeal which is thereafter taken, but if the decision is finally reversed, no employer's account shall be charged with benefits so paid and this relief from charges shall apply to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

The employer timely protested the notice of claim. Therefore, the protest shall be accepted as timely.

**DECISION:**

The July 11, 2017, reference 06, decision is reversed. The employer timely protested the notice of claim. The claimant has requalified for benefits since the separation and since the prior claim year separation decision. Benefits are allowed, provided the claimant is otherwise eligible. The account of the employer shall not be charged.

---

Beth A. Scheetz  
Administrative Law Judge

---

Decision Dated and Mailed

bas/rvs