

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ANTHONY HOADLEY
Claimant

APPEAL NO. 08A-UI-07531-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

SCHILDBERG CONSTRUCTION CO INC
Employer

**OC: 12/30/07 R: 03
Claimant: Respondent (4)**

Section 96.6-2 - Timeliness of Protest

STATEMENT OF THE CASE:

Schildberg Construction Company, Inc. (employer) appealed an unemployment insurance decision dated August 14, 2008, reference 01, which held it failed to file a timely protest regarding the claimant's separation of employment on July 25, 2006 and no disqualification of unemployment insurance benefits was imposed. Due notice was issued scheduling the matter for a telephone hearing to be held September 2, 2008. Because a decision fully favorable to the parties could be made based on the record as it stood, a hearing was deemed unnecessary. Based on the evidence and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

The issue is whether the employer's protest in this matter was timely.

FINDINGS OF FACT:

The administrative law judge, having reviewed and 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 January 18, 2008. The employer filed a protest on January 22, 2008, but it was not received by Iowa Workforce. The employer did not know the protest was not received until it received the quarterly statement of charges in August 2008. An appeal was immediately filed to the charges and an explanation was included with its appeal. The claimant has requalified for benefits since the separation from the employer.

REASONING AND CONCLUSIONS OF LAW:

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 administrative law judge concludes that the employer filed its protest within the time period prescribed by the Iowa Employment Security Law because they did initially reply to the notice of claim on January 22, 2008 but the agency did not receive the protest. The employer was unaware of any adverse decision until it received the quarterly statement of charges in August 2008. An appeal was filed to those charges within 30 days of that notice to protest the payment of benefits to the claimant. The administrative law judge concludes the protest shall be accepted as timely.

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

DECISION:

The employer's protest is timely. The unemployment insurance decision dated August 14, 2008, reference 01, is modified in favor of the appellant. The employer has filed a timely protest, and the claimant has requalified for benefits since the separation. Benefits are allowed, provided the claimant is otherwise eligible. The account of the employer shall not be charged.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/kjw