

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**DAVID L VANLANINGHAM**  
Claimant

**APPEAL NO: 14A-UI-04901-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**L A LEASING INC**  
Employer

**OC: 11/10/13**  
**Claimant: Respondent (4)**

Iowa Code § 96.6(2) – Timely Protest

**PROCEDURAL STATEMENT OF THE CASE:**

The employer appealed a representative's May 1, 2014 determination (reference 02) that held the employer's account subject to charge because the employer had not filed a timely protest. The employer responded to the hearing notice and based on the information contacted in the administrative record and the law, the administrative law judge concludes the employer filed a timely appeal and established a legal excuse for filing a late protest.

**ISSUE:**

Did the employer file a timely protest or establish a legal excuse for filing a late protest?

**FINDINGS OF FACT:**

The claimant established a claim for benefits during the week of November 10, 2013. A notice of claim was mailed to the employer on November 15, 2013. The employer faxed a protest to the Department on November 25, 2013. The employer's fax transmittal record verifies this protest was successfully transmitted on November 25, 2013.

Before the claimant established a claim for benefits, he did not return to work after November 13, 2013.

The claimant has not filed any weekly claims. The administrative record indicates he started working for Winnebago Industries during the fourth quarter of 2013.

**REASONING AND CONCLUSIONS OF LAW:**

The law provides that all interested parties shall be promptly notified about an individual filing a claim. The parties have ten days from the date of mailing the notice of claim to protest payment of benefits to the claimant. Iowa Code § 96.6(2). Another portion of Iowa Code § 96.6(2) dealing with timeliness of an appeal from a representative's determination states an appeal must be filed within ten days after notification of when that determination was mailed. In addressing an issue of timeliness of an appeal under that portion of this Code section, the Iowa

Supreme Court has held that this statute clearly limits the time to do so, and compliance with the appeal notice provision is mandatory and jurisdictional. *Beardslee v. IDJS*, 276 N.W.2d 373 (Iowa 1979).

The reasoning and holding of the *Beardslee* court is considered controlling on the portion of Iowa Code § 96.6(2) which deals with the time limit to file a protest after the notice of claim has been mailed to the employer. The record indicates the employer filed a timely protest on November 25, 2013. Therefore, there is legal jurisdiction to relieve the employer's account from charge.

The next issue is whether the employer's account is subject to charge. The claimant quit on November 13, 2013, when he failed to return to work. An employer's account is relieved from charge when a claimant voluntarily quits employment without good attributable to the employer. Iowa Code § 96.7(2)a.

Since the claimant has not filed any claims, his eligibility to receive benefits must be addressed if and when he reopens this claim for benefits.

**DECISION:**

The representative's May 1, 2014 determination (reference 02) is modified in the employer's favor. The employer filed a timely protest on November 25, 2013. The employer's account will not be charged if the claimant reopens his claim and is qualified to receive benefits.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

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