

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

RORY A JACKSON
Claimant

SIOUX CITY COMMUNITY SCHOOL DIST
Employer

APPEAL 16A-UI-08135-JP-T
ADMINISTRATIVE LAW JUDGE
DECISION

OC: 08/30/15
Claimant: Respondent (2-R)

Iowa Code § 96.6(2) – Timeliness of Protest

STATEMENT OF THE CASE:

Employer filed an appeal from the July 22, 2016, (reference 02) decision that found the protest untimely and allowed benefits. After due notice was issued, a hearing was held by telephone conference call on August 15, 2016. The claimant did not participate. The employer participated by assistant human resources director Debi Douma-Herren.

ISSUE:

Is the employer's protest timely?

FINDINGS OF FACT:

Having reviewed the evidence in the record, the administrative law judge finds: On September 4, 2015, a Notice of Claim was mailed to the employer at the address of record (Sherri Jones, 627 4th St, Sioux City, IA 51101).

Prior to September 4, 2015, Iowa Workforce Development (IWD) had used as the employer's address of record: Human Resources, 627 4th St, Sioux City, IA 51101. In August 2015, the employer's address of record was changed to Sherri Jones, 627 4th St., but not at the request of the employer. In late September 2015, Ms. Douma-Herren received a phone call from IWD that she was not scheduled for. Ms. Douma-Herren determined that the employer's address of record had been changed, but not at the request of the employer, and she had IWD change the employer's address of record back to Human Resources, 627 4th St. Ms. Douma-Herren inquired with IWD about any missed documents and it appeared that the employer was up to date; claimant's claim was not mentioned. Ms. Jones works in the finance department and brought everything she had at the time that had been sent by IWD; claimant's claim was not among the documents Ms. Jones had received.

In the middle of July 2016, the employer received from IWD a notice of reimbursable benefit charges that included claimant's claim. Ms. Douma-Herren then contacted IWD about claimant's claim. Ms. Douma-Herren also checked again with Ms. Jones who stated she had

not received the Notice of Claim for claimant. IWD then faxed copy of the Notice of Claim to the employer on July 21, 2016, with a due date of September 14, 2015. IWD stated that they will issue an untimely protest decision.

As soon as Ms. Douma-Herren received notice that claimant had filed a claim, she contacted IWD.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes that employer's protest should be accepted as timely.

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 because the notice was not received in a timely fashion. The employer did not receive the notice of claim until July 21, 2016. Without timely notice of a disqualification, no meaningful opportunity for appeal exists. See *Smith v. Iowa Emp't Sec. Comm'n*, 212 N.W.2d 471, 472 (Iowa 1973). The employer filed the protest within one day of receipt of the notice of claim. Therefore, the protest shall be accepted as timely.

DECISION:

The July 22, 2016, (reference 02) unemployment insurance decision is reversed. The employer has filed a timely protest.

REMAND:

The separation issue is remanded to the Benefits Bureau of Iowa Workforce Development for a fact-finding interview and unemployment insurance decision.

Jeremy Peterson
Administrative Law Judge

Decision Dated and Mailed

jp/pjs