

**IOWA DEPARTMENT OF INSPECTIONS AND APPEALS  
ADMINISTRATIVE HEARINGS DIVISION, UI APPEALS BUREAU**

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**STEPHANIE M REILLY**  
Claimant

**APPEAL 22A-UI-19816-AW-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CASEY'S MARKETING COMPANY**  
Employer

**OC: 06/05/22**  
**Claimant: Respondent (2R)**

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Iowa Code § 96.6(2) – Filing – Timely Appeal and Timely Protest

**STATEMENT OF THE CASE:**

Employer filed an appeal from the June 27, 2022 (reference 02) unemployment insurance decision that found employer's protest untimely. The parties were properly notified of the hearing. A telephone hearing was held on January 19, 2023. Claimant did not participate. Employer participated through Isabella Kogut, Lead Senior Account Executive. No exhibits were admitted. Official notice was taken of the administrative record.

**ISSUES:**

Whether employer filed a timely appeal.  
Whether employer filed a timely protest.

**FINDINGS OF FACT:**

Having reviewed the evidence in the record, the administrative law judge finds:

The Unemployment Insurance Decision was mailed to employer at the correct address on June 27, 2022. Employer did not receive the decision. The decision states that it becomes final unless an appeal is postmarked or received by Iowa Workforce Development (IWD) Appeals Section by July 7, 2022.

Employer learned of the decision when it received a Statement of Charges dated August 9, 2022 for the second quarter of 2022 listing charges for claimant; employer appealed the Statement of Charges via mail on September 8, 2022 as evidenced by a postmark. IWD did not receive employer's appeal of the August 9, 2022 Statement of Charges.

Employer received a Statement of Charges dated November 9, 2022 for the third quarter of 2022 listing charges for claimant; employer appealed the Statement of Charges via mail on December 8, 2022 as evidenced by a postmark. IWD received the appeal on December 12, 2022 and considered it an appeal of the June 27, 2022 (reference 02) decision.

The Notice of Claim was provided to employer through the State Identification Data Exchange System (SIDES) on June 11, 2022. SIDES lists a response due date of June 23, 2022.

Employer transmitted its protest via SIDES on June 23, 2022 at 11:30 pm.<sup>1</sup> Claimant's separation from employment has not yet been the subject of a Benefits Bureau initial interview and decision.

### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes:

Iowa Code § 96.6(2) provides, in pertinent part: “[u]nless 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.”

Iowa Admin. Code r. 871-24.35(1) provides:

1. Except as otherwise provided by statute or by division rule, any payment, appeal, application, request, notice, objection, petition, report or other information or document submitted to the division shall be considered received by and filed with the division:

(a) If transmitted via the United States Postal Service on the date it is mailed as shown by the postmark, or in the absence of a postmark the postage meter mark of the envelope in which it is received; or if not postmarked or postage meter marked or if the mark is illegible, on the date entered on the document as the date of completion.

(b) If transmitted via the State Identification Data Exchange System (SIDES), maintained by the United States Department of Labor, on the date it was submitted to SIDES.

(c) If transmitted by any means other than [United States Postal Service or the State Identification Data Exchange System (SIDES)], on the date it is received by the division.

Iowa Admin. Code r. 871-24.35(2) provides:

2. The submission of any payment, appeal, application, request, notice, objection, petition, report or other information or document not within the specified statutory or regulatory period shall be considered timely if it is established to the satisfaction of the division that the delay in submission was due to division error or misinformation or to delay or other action of the United States postal service.

Employer did not receive the decision. Therefore, the appeal notice provisions were invalid. Employer did not have a reasonable opportunity to file a timely appeal. Employer filed an appeal of subsequent Statements of Charges in a timely manner. Employer's appeal is considered timely.

The next issue to be determined is whether employer filed a timely protest. For the reasons that follow, the administrative law judge concludes:

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<sup>1</sup> SIDES shows employer's protest was transmitted on June 24, 2022 at 12:30 a.m. Eastern Time, which is 11:30 p.m. on June 23, 2022 in Central Time. (see 21B-UI-01600)

Employer transmitted its protest on the due date. Employer's protest is timely.

**DECISION:**

Employer's appeal is timely. The June 27, 2022 (reference 02) unemployment insurance decision is REVERSED. Employer's protest was timely.

**REMAND:**

The separation issue is remanded to the Benefits Bureau of Iowa Workforce Development for an initial interview and decision.

A handwritten signature in black ink, appearing to read "Adrienne C. Williamson", is written over a horizontal line.

Adrienne C. Williamson  
Administrative Law Judge

January 31, 2023  
Decision Dated and Mailed

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**APPEAL RIGHTS.** If you disagree with the decision, you or any interested party may:

1. Appeal to the Employment Appeal Board within fifteen (15) days of the date under the judge's signature by submitting a written appeal via mail, fax, or online to:

**Employment Appeal Board  
4<sup>th</sup> Floor – Lucas Building  
Des Moines, Iowa 50319  
Fax: (515)281-7191  
Online: [eab.iowa.gov](http://eab.iowa.gov)**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

**AN APPEAL TO THE BOARD SHALL STATE CLEARLY:**

- 1) The name, address, and social security number of the claimant.
- 2) A reference to the decision from which the appeal is taken.
- 3) That an appeal from such decision is being made and such appeal is signed.
- 4) The grounds upon which such appeal is based.

An Employment Appeal Board decision is final agency action. If a party disagrees with the Employment Appeal Board decision, they may then file a petition for judicial review in district court.

2. If no one files an appeal of the judge's decision with the Employment Appeal Board within fifteen (15) days, the decision becomes final agency action, and you have the option to file a petition for judicial review in District Court within thirty (30) days after the decision becomes final. Additional information on how to file a petition can be found at Iowa Code §17A.19, which is online at <https://www.legis.iowa.gov/docs/code/17A.19.pdf> or by contacting the District Court Clerk of Court <https://www.iowacourts.gov/iowa-courts/court-directory/>.

**Note to Parties:** YOU MAY REPRESENT yourself in the appeal or obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds.

**Note to Claimant:** It is important that you file your weekly claim as directed, while this appeal is pending, to protect your continuing right to benefits.

**SERVICE INFORMATION:**

A true and correct copy of this decision was mailed to each of the parties listed.

**DERECHOS DE APELACIÓN.** Si no está de acuerdo con la decisión, usted o cualquier parte interesada puede:

1. Apelar a la Junta de Apelaciones de Empleo dentro de los quince (15) días de la fecha bajo la firma del juez presentando una apelación por escrito por correo, fax o en línea a:

**Employment Appeal Board  
4th Floor – Lucas Building  
Des Moines, Iowa 50319  
Fax: (515)281-7191  
En línea: eab.iowa.gov**

El período de apelación se extenderá hasta el siguiente día hábil si el último día para apelar cae en fin de semana o día feriado legal.

**UNA APELACIÓN A LA JUNTA DEBE ESTABLECER CLARAMENTE:**

- 1) El nombre, dirección y número de seguro social del reclamante.
- 2) Una referencia a la decisión de la que se toma la apelación.
- 3) Que se interponga recurso de apelación contra tal decisión y se firme dicho recurso.
- 4) Los fundamentos en que se funda dicho recurso.

Una decisión de la Junta de Apelaciones de Empleo es una acción final de la agencia. Si una de las partes no está de acuerdo con la decisión de la Junta de Apelación de Empleo, puede presentar una petición de revisión judicial en el tribunal de distrito.

2. Si nadie presenta una apelación de la decisión del juez ante la Junta de Apelaciones Laborales dentro de los quince (15) días, la decisión se convierte en acción final de la agencia y usted tiene la opción de presentar una petición de revisión judicial en el Tribunal de Distrito dentro de los treinta (30) días después de que la decisión adquiriera firmeza. Puede encontrar información adicional sobre cómo presentar una petición en el Código de Iowa §17A.19, que se encuentra en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf> o comunicándose con el Tribunal de Distrito Secretario del tribunal <https://www.iowacourts.gov/iowa-courts/court-directory/>.

**Nota para las partes:** USTED PUEDE REPRESENTARSE en la apelación u obtener un abogado u otra parte interesada para que lo haga, siempre que no haya gastos para Workforce Development. Si desea ser representado por un abogado, puede obtener los servicios de un abogado privado o uno cuyos servicios se paguen con fondos públicos.

**Nota para el reclamante:** es importante que presente su reclamo semanal según las instrucciones, mientras esta apelación está pendiente, para proteger su derecho continuo a los beneficios.

**SERVICIO DE INFORMACIÓN:**

Se envió por correo una copia fiel y correcta de esta decisión a cada una de las partes enumeradas.