

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

KRISTY A KOZUKI
Claimant

4JMN LLC
Employer

APPEAL 22A-UI-04273-AW-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 12/26/21
Claimant: Respondent (4)**

Iowa Code Chapter 95 – Requalification
Iowa Code § 96.6(2) – Timeliness of Protest

STATEMENT OF THE CASE:

Employer filed an appeal from the February 1, 2022 (reference 01) unemployment insurance decision that found employer’s protest untimely. The parties were properly notified of the hearing. A telephone hearing was held on March 18, 2022. Claimant did not participate. Employer participated through Mike Earp, Franchisee/Owner. No exhibits were admitted. Official notice was taken of the administrative record.

ISSUE:

Whether employer filed a timely protest.

FINDINGS OF FACT:

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

The Notice of Claim was mailed to employer at its correct address on January 3, 2022. Employer completed and signed the Statement of Protest on January 12, 2022 and placed it in the outgoing mail box at his local post office on the morning on January 12, 2022. The Notice of Claim lists a due date of January 13, 2022. The protest is postmarked January 14, 2022. Iowa Workforce Development (IWD) received employer’s protest on January 18, 2022.

Employer is protesting the claim on the basis that claimant voluntarily quit on April 25, 2021. Claimant earned ten times her weekly benefit amount between separating from employer and filing a claim effective December 26, 2021.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that employer’s protest was timely.

Iowa Code § 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.

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 on 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 submitted its protest via mail prior to the deadline. Any delay in postmarking or receipt of employer's protest is due to delay by the United States postal service or due to agency error. Employer's protest is considered timely.

Claimant has requalified for benefits since separating from this employer. Accordingly, benefits are allowed provided claimant is otherwise eligible. Employer's account shall not be charged.

DECISION:

The appeal is timely. The February 1, 2022 (reference 01) unemployment insurance decision is modified in favor of appellant. Claimant has requalified for benefits since separating from employer. Benefits are allowed provided claimant is otherwise eligible. Employer's account (number 578032-000) shall not be charged.



Adrienne C. Williamson
Administrative Law Judge
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March 24, 2022
Decision Dated and Mailed

acw/ACW