

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**ZACHARIAH L DUNN**  
Claimant

**APPEAL 17A-UI-02407-NM-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**MULTIFAMILY MANAGEMENT**  
Employer

**OC: 10/16/16  
Claimant: Respondent (2R)**

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Iowa Code § 96.6(2) – Timeliness of Appeal

**STATEMENT OF THE CASE:**

The employer filed a timely appeal from the February 20, 2017, (reference 04) unemployment insurance decision that found the protest untimely and allowed benefits. After due notice was issued, a hearing was held on March 27, 2017. The claimant did not participate. The employer participated through Hearing Representative Caroline Semer and witnesses Gisela Garcia-Soto and Karen Langas. Department's Exhibit D-1 was received.

**ISSUE:**

Was the employer's protest timely?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant's notice of claim was provided to the employer via its designated representative, ADP, on January 27, 2017. The Notice of Claim was mailed to an ADP office in Miami, Florida. This is not the correct mailing address for the employer's representative for Iowa Unemployment Insurance claims and the representative was unsure where this address came from. Neither the employer, nor its representative understood why the Notice of Claim was sent to the Miami address, as all other communication from Iowa Workforce Development has been sent to the correct address, a PO Box in St. Louis, Missouri. Because the Notice of Claim was sent to the wrong address, it was not received by the hearing representative until Thursday, February 9. The deadline for returning the protest was February 6, 2017. The representative immediately contacted the employer to obtain the necessary information to fill out and return the Notice of Claim form. The information was received on Monday, February 13, and the Employer Statement of Protest was submitted and received on February 14, 2017.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the employer's protest is 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 delay was caused by the Notice of Claim being sent to an incorrect address. 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 three business and five calendar days of receipt of the Notice of Claim. Therefore, the protest shall be accepted as timely.

**DECISION:**

The February 20, 2017, (reference 04) unemployment insurance decision is reversed. The employer 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.

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Nicole Merrill  
Administrative Law Judge

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Decision Dated and Mailed

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