

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

GARY L DEJONG
Claimant

SCE PARTNERS LLC
Employer

APPEAL 17A-UI-10317-LJ-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 09/03/17
Claimant: Respondent (2-R)

Iowa Code § 96.6(2) - Timeliness of Protest

STATEMENT OF THE CASE:

The employer filed a timely appeal from the October 2, 2017 (reference 01) unemployment insurance decision that found the protest untimely and allowed benefits. After due notice was issued, a hearing was held on October 25, 2017. The claimant, Gary L. DeJong, participated. The employer, SCE Partners, L.L.C., participated by Renae Merchant, Human Resources Manager. Department's Exhibit D-1 was received.

ISSUES:

Was the employer's protest timely?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The employer has recently enrolled in the SIDES system to receive its notices of claims online. It has been experiencing repeated issues with the system. The employer initially received an email from the SIDES system on September 22. However, when someone attempted to log into the system and complete the statement of protest, the system would not save the entered information or submit it for processing. The employer reached out to Iowa Workforce Development via email, but it has not received the necessary assistance. The employer eventually was able to submit the statement of protest on September 27, 2017.

REASONING AND CONCLUSIONS OF LAW:

The sole issue on appeal is whether employer's protest is timely. The administrative law judge concludes it is.

Iowa Code section 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. 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). Additionally, the employer had numerous difficulties accessing the notice of claim and submitting the statement of protest, and it does not appear these problems were any fault of the employer's. The employer filed the protest as promptly upon receipt of the notice of claim as practicable. Therefore, the protest shall be accepted as timely.

DECISION:

The October 2, 2017 (reference 01) 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.

Elizabeth A. Johnson
Administrative Law Judge

Decision Dated and Mailed

lj/scn