

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

**STEPHANIE M EVANS**

Claimant

**IMAGINE THE POSSIBILITIES INC**

Employer

**APPEAL 17A-UI-02667-JP-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 01/01/17**

**Claimant: Respondent (2-R)**

Iowa Code § 96.6(2) – Timeliness of Protest

**STATEMENT OF THE CASE:**

Employer filed an appeal from the February 28, 2017, (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 April 3, 2017. Claimant participated. The employer participated by regional executive director Jeff Morris.

Employer exhibit one was offered into evidence. Claimant objected to the employer exhibit one because it was irrelevant. Claimant's objection was overruled and employer exhibit one was admitted into evidence.

**ISSUE:**

Is 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 mailed to the employer's old address of record (address for EQUIFAX in Saint Louis, Missouri) on February 10, 2017. Employer Exhibit One. EQUIFAX then forwarded the notice of claim to the employer. Employer Exhibit One. The employer received the notice of claim on February 21, 2017. Employer Exhibit One. The notice of claim contains a warning that the employer protest response is due ten days from the initial notice date and gave a response deadline of February 21, 2017. Employer Exhibit One. The employer did not file a protest response until February 24, 2017, which is after the ten-day period had expired.

The employer had previously used EQUIFAX for its unemployment insurance claims. Prior to July 1, 2016, the employer's unemployment insurance documents went through EQUIFAX. The employer stopped working with EQUIFAX regarding its unemployment insurance claims on July 1, 2016. Employer Exhibit One.

On July 12, 2016, the employer sent an Employer's Notice of Change to Iowa Workforce Development (IWD) to change its address of record to 108 East Industrial Street in DeWitt, Iowa. Employer Exhibit One. On February 10, 2017, the notice of claim was mailed to the address for EQUIFAX, not the employer's address. Employer Exhibit One. The first time the

employer realized that the address of record had not been properly updated by IWD was on February 21, 2017 when it received the notice of claim from EQUIFAX. Employer Exhibit One. On March 9, 2017, Mr. Morris contacted IWD to get the address updated correctly.

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

The first issue is whether employer's protest is timely. The administrative law judge concludes it is.

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 law provides that all interested parties shall be promptly notified about an individual filing a claim. The parties have ten days from the date of mailing the notice of claim to protest payment of benefits to the claimant. Iowa Code § 96.6(2). Another portion of section 96.6(2) dealing with timeliness of an appeal from a representative's decision states an appeal must be filed within ten days after notification of that decision was mailed. In addressing an issue of timeliness of an appeal under that portion of this Code section, the Iowa Supreme Court has held that this statute clearly limits the time to do so, and compliance with the appeal notice provision is mandatory and jurisdictional. *Beardslee v. Iowa Dep't of Job Serv.*, 276 N.W.2d 373 (Iowa 1979). The reasoning and holding of the Beardslee court is considered controlling on the portion of Iowa Code section 96.6(2) that deals with the time limit to file a protest after the notice of claim has been mailed to the employer.

The employer did not have an opportunity to timely 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). The employer provided substantial and credible evidence that on July 12, 2016, it notified IWD that the employer's address of record changed to 108 East Industrial Street, DeWitt, Iowa. Employer Exhibit One. Although the employer notified IWD about its new address of record, the notice of claim was mailed to the employer's old address of record (EQUIFAX in Saint Louis, Missouri) on February 10, 2017. Employer Exhibit One. The employer filed the protest within three days of receipt of the notice of claim from EQUIFAX.

The first time the employer became aware that its address of record was not properly changed was when it received the notice of claim from EQUIFAX on February 21, 2017. Therefore, the protest shall be accepted as timely.

### **DECISION:**

The February 28, 2017, (reference 02) 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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Jeremy Peterson  
Administrative Law Judge

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Decision Dated and Mailed

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