

**IOWA WORKFORCE DEVELOPMENT  
Unemployment Insurance Appeals Section  
1000 East Grand—Des Moines, Iowa 50319  
DECISION OF THE ADMINISTRATIVE LAW JUDGE  
68-0157 (7-97) – 3091078 - EI**

**JOYCE M HEMMINGSEN  
1768 FALCON AVE  
AUDUBON IA 50250**

**FRIENDSHIP HOME ASSOCIATION  
714 N DIVISION  
AUDUBON IA 50025**

**Appeal Number: 04A-UI-03138-CT  
OC: 02/15/04 R: 01  
Claimant: Respondent (2-R)**

**This Decision Shall Become Final**, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4<sup>th</sup> Floor—Lucas Building, Des Moines, Iowa 50319**.

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.

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.

YOU MAY REPRESENT yourself in this appeal or you may 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. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.6(2) – Timeliness of Protests

STATEMENT OF THE CASE:

Friendship Home Association filed an appeal from a representative's decision dated March 10, 2004, reference 01, which held that the protest to Joyce Hemmingsen's claim was not timely filed. After due notice was issued, a hearing was held by telephone on April 13, 2004. The employer participated by Jenny Fox, Business Office; Bill Cramer, Maintenance Supervisor; and Katie Zobel, Administrator. Ms. Hemmingsen did not respond to the notice of hearing.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all the evidence in the record, the administrative law judge finds: Ms. Hemmingsen filed a claim for job insurance benefits effective February 15, 2004. Notice of the claim was mailed to the employer on February 19. The employer did not receive the notice of claim until March 4 and submitted its protest by fax the same day. The employer occasionally has problems with misdirected mail.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether the employer's protest should be considered timely filed within the meaning of Iowa Code Section 96.6(2). Because the notice of claim was not received until after the due date, the employer could not have perfected a timely protest. Inasmuch as the protest was returned the same day it was received, it shall be deemed timely filed. This matter shall be remanded to Claims for a determination regarding Ms. Hemmingsen's separation from Friendship Home Association.

DECISION:

The representative's decision dated March 10, 2004, reference 01, is hereby reversed. The employer's protest is considered timely filed. This matter is remanded to Claims for a determination concerning Ms. Hemmingsen's separation from employment.

cfc/kjf