

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

STEELE HARTER
Claimant

CITY OF URBANDALE
Employer

APPEAL 22A-UI-00024-JD-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 10/31/21
Claimant: Respondent (2R)**

Iowa Code § 96.6(2) – Timeliness of Appeal

STATEMENT OF THE CASE:

On November 22, 2021, the employer filed an appeal from the November 19, 2021, (reference 01) unemployment insurance decision that found the protest untimely and allowed benefits. After due notice was issued, a hearing was held by telephone conference call on January 19, 2022. The claimant participated. The employer participated through Beth Lauck, Human Resources Analyst. Employer's Exhibits 1-2 were admitted. The administrative law judge took official notice of the administrative record.

ISSUE:

Is the employer's protest timely?

FINDINGS OF FACT:

Having reviewed the evidence in the record, the administrative law judge finds: The claimant's notice of claim was mailed to employer's address of record on November 03, 2021. The notice of claim was received on November 15, 2021, the last day of the 10-day appeal period. The employer faxed their protest along with additional supplemental information on November 15, 2021. (Emp. Ex. 1). The claimant's separation from employment has not yet been the subject of a Benefits Bureau fact-finding interview.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes that employer has filed a timely protest response as by the Iowa Employment Security Law.

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.

Another portion of this same Code section dealing with timeliness of an appeal from a representative's decision states that such 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 held that this statute prescribing the time for notice of appeal clearly limits the time to do so, and that compliance with the appeal notice provision is mandatory and jurisdictional. *Beardslee v. IDJS*, 276 N.W.2d 373 (Iowa 1979). The employer received the Notice of Claim and faxed their Protest to this Notice on November 15, 2021. This was the due date listed on the Notice of Claim. (Emp. Ex. 1-2). The employer filed a timely protest to the notice of claim.

DECISION:

The November 19, 2021, (reference 01) unemployment insurance decision is reversed. The employer has 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.



Jason Dunn
Administrative Law Judge
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February 9, 2022
Decision Dated and Mailed

jd/kmj