

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

NAVEAH D WATSON

Claimant

APPEAL 22A-UI-02795-AW-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

BLACKHAWK SERVICES CORP

Employer

OC: 05/09/21

Claimant: Respondent (4)

Iowa Code Chapter 95 – Requalification
Iowa Code § 96.6(2) – Timeliness of Protest

STATEMENT OF THE CASE:

Employer filed an appeal from the January 7, 2022 (reference 04) unemployment insurance decision that found employer's protest untimely. The parties were properly notified of the hearing. A telephone hearing was held on February 25, 2022. Claimant did not participate. Employer participated through Amber Meadows, Unemployment Specialist. Employer's Exhibit 1A was admitted. Official notice was taken of the administrative record.

ISSUE:

Whether employer filed a timely protest.

FINDINGS OF FACT:

Having reviewed the evidence in the record, the administrative law judge finds:

The Notice of Claim was mailed to employer at its correct address on May 12, 2021. The Notice of Claim lists a due date of May 24, 2021. Employer's protest was submitted via fax on May 24, 2021. (Exhibit 1A) Iowa Workforce Development (IWD) received employer's protest on May 25, 2021. Claimant has earned ten times her weekly benefit amount since her separation from this employer.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that employer's protest was timely.

Iowa Code § 96.6(2) provides:

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.

Iowa Admin. Code r. 871-24.35(1) provides:

1. Except as otherwise provided by statute or by division rule, any payment, appeal, application, request, notice, objection, petition, report or other information or document submitted to the division shall be considered received by and filed with the division:

(a) If transmitted via the United States Postal Service on the date it is mailed as shown by the postmark, or in the absence of a postmark the postage meter mark on the envelope in which it is received; or if not postmarked or postage meter marked or if the mark is illegible, on the date entered on the document as the date of completion.

(b) If transmitted via the State Identification Data Exchange System (SIDES), maintained by the United States Department of Labor, on the date it was submitted to SIDES.

(c) If transmitted by any means other than [United States Postal Service or the State Identification Data Exchange System (SIDES)], on the date it is received by the division.

Iowa Admin. Code r. 871-24.35(2) provides:

2. The submission of any payment, appeal, application, request, notice, objection, petition, report or other information or document not within the specified statutory or regulatory period shall be considered timely if it is established to the satisfaction of the division that the delay in submission was due to division error or misinformation or to delay or other action of the United States postal service.

Employer submitted its protest via fax on the due date. Any delay in Iowa Workforce Development receiving employer's protest is due to agency error. Employer's protest is timely. Claimant has requalified for benefits since her separation from this employer. Accordingly, benefits are allowed provided claimant is otherwise eligible. Employer's account shall not be charged.

DECISION:

The January 7, 2022 (reference 04) unemployment insurance decision is modified in favor of appellant. Employer's protest was timely. Claimant has requalified for benefits since the separation. Benefits are allowed provided claimant is otherwise eligible. Employer's account (#631102-000) shall not be charged.



Adrienne C. Williamson
Administrative Law Judge
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March 10, 2022
Decision Dated and Mailed

acw/ACW