

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**JESSICA M RICE**  
Claimant

**DEAN SNYDER CONSTRUCTION CO**  
Employer

**APPEAL 17A-UI-00393-LJ-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 12/11/16**  
**Claimant: Respondent (2-R)**

Iowa Code § 96.6(2) - Timeliness of Protest

**STATEMENT OF THE CASE:**

The employer filed a timely appeal from the January 10, 2017, (reference 01) unemployment insurance decision that found the protest untimely and allowed benefits. After due notice was issued, a hearing was held on February 2, 2017. The claimant, Jessica Rice, participated. The employer, Dean Snyder Construction Company, participated by Brian Carrott, Human Resources Manager. Employer's Exhibit 1 was received and admitted into the record. The administrative law judge took official of the fact-finding documentation as well as the notice of claim, statement of protest, and SIDES system information.

**ISSUE:**

Was the employer's protest timely?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant's initial claim appeared in the SIDES system with a creation date of December 14, 2016. Claimant's notice of claim was provided to the employer in the SIDES system with an e-mail alert on December 24, 2016. 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 January 6, 2017. The employer filed its protest on January 5, 2017.

**REASONING AND CONCLUSIONS OF LAW:**

The sole issue 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 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 protest the notice of claim within the timeline initially established by the SIDES system because the employer did not receive a notice until approximately ten days after the claim was filed. Without timely notice, 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 received notice of the unemployment insurance claim for the first time on December 24. This notice set a deadline for responding of January 6, 2017, and the employer filed its statement of protest before that deadline. The employer has provided sufficient evidence of intent to protest any potential charges to its account.

**DECISION:**

The January 10, 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.

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Elizabeth A. Johnson  
Administrative Law Judge

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Decision Dated and Mailed

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