

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

**ADAM D DAMEWOOD**  
Claimant

**APPEAL NO. 08A-UI-08852-AT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**LBT INC**  
Employer

**OC: 08/24/08 R: 01  
Claimant: Respondent (1)**

Section 96.6-2 – Timely Protest

**STATEMENT OF THE CASE:**

LBT, Inc. filed a timely appeal from an unemployment insurance decision dated September 23, 2008, reference 02, that allowed benefits to Adam D. Damewood upon a finding that the employer's protest was untimely. After due notice was issued, a telephone hearing was held October 15, 2008 with Angela Marksbury participating for the employer. Mr. Damewood did not provide a telephone number at which he could be contacted. Exhibit D-1 was admitted into evidence.

**ISSUE:**

Did the employer file a timely protest?

**FINDINGS OF FACT:**

Having heard the testimony of the witness and having examined all of the evidence in the record, the administrative law judge finds: On September 3, 2008, Iowa Workforce Development mailed a Notice of Claim to LBT, Inc., notifying the employer that Adam D. Damewood had filed a claim for unemployment insurance benefits. The Notice of Claim advised the employer that a response was due September 15, 2008. The person who normally would have completed the form was not at work during the time in question. The form was eventually completed and faxed to the Agency on September 17, 2008.

**REASONING AND CONCLUSIONS OF LAW:**

The question is whether the employer has filed a timely protest. It has not.

Iowa Code section 96.6-2 gives an employer ten days from the date the Notice of Claim is mailed to file its protest. The Supreme Court of Iowa has ruled that the time limits set out in that statute are jurisdictional. See Franklin v. Iowa Department of Job Service, 277 N.W.2d 877, 881 (Iowa 1979).

The evidence establishes that the employer's protest was filed late. Therefore, the administrative law judge has no jurisdiction to remand the case for a fact-finding interview on whether the separation from employment was a disqualifying event. The administrative law judge notes that this employer is from Nebraska and will report the claimant's wages to the Nebraska Department of Labor. The employer's liability, if any, for benefits paid to this claimant will be determined by the Nebraska agency.

**DECISION:**

The unemployment insurance decision dated September 23, 2008, reference 02, is affirmed. The employer's protest was not timely. The claimant is entitled to receive unemployment insurance benefits, provided he is otherwise eligible.

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Dan Anderson  
Administrative Law Judge

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Decision Dated and Mailed

pjs/pjs