

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ROSS P RINEHART
Claimant

APPEAL NO. 12A-UI-09207-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

ADVANCE SERVICES INC
Employer

OC: 03-04-12
Claimant: Respondent (4)

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

STATEMENT OF THE CASE:

The employer filed a timely appeal from the July 30, 2012, reference 01, decision that found their notice of protest untimely and allowed benefits. After due notice was issued, a hearing was held on August 22, 2012. The claimant did not participate. The employer did participate through Steve Voylie. Employer's Exhibit One was entered and received into the record.

ISSUE:

Did the employer file a timely notice of protest and has the claimant requalified for benefits since his separation?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The employer made multiple attempts to fax in a notice of protest, but the agency fax machine was not working. The employer illustrated via a copy of the notice of protest received by the agency that their submission was timely. The employer filed a timely notice of protest and the claimant has requalified for benefits since his separation.

FINDINGS OF FACT:

Having reviewed the evidence in the record, the administrative law judge finds: The claimant's notice of claim was mailed to the employer's address of record on March 6, 2012 and received a response filed by the employer on March 9, 2012. The claimant has requalified for benefits since the separation from the employer.

REASONING AND CONCLUSIONS OF LAW:

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 employer filed the protest on March 9, 2012. It was not due until March 16, 2012. The employer's notice of protest was timely.

The administrative law judge further concludes that the claimant has requalified for benefits since the separation from this employer. Accordingly, benefits are allowed and the account of the employer shall not be charged.

DECISION:

The July 30, 2012 (reference 01) decision is modified in favor of the appellant. The employer has filed a timely protest, and the claimant has requalified for benefits since the separation. Benefits are allowed, provided the claimant is otherwise eligible. The account of the employer shall not be charged.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/kjw