

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**TINA A HENNINGS**  
Claimant

**APPEAL NO. 08A-UI-07423-H2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**KRAJICEK INC**  
Employer

**OC: 07-20-08 R: 01**  
**Claimant: Respondent (4)**

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

**STATEMENT OF THE CASE:**

The employer filed a timely appeal from the August 14, 2008, reference 02, decision that allowed benefits and found the protest untimely. After due notice was issued, a hearing was held on September 2, 2008. The claimant did participate. The employer did participate through Vicki Friedrichsen, Assistant Safety Director. Department's Exhibit D-1 was received.

**ISSUE:**

Did the employer file a timely notice of protest?

**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 July 24, 2008. The employer did protest on August 12, 2008. The claimant has requalified for benefits since the separation from the employer. The employer did not receive the notice of protest in their Dunlap office until August 4, 2008. The employer did not have an opportunity to file a timely notice because the notice had to be sent to another location in Denison to be reviewed and completed.

**REASONING AND CONCLUSIONS OF 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.

The administrative law judge concludes that the employer filed its protest within the time period prescribed by the Iowa Employment Security Law because they did not initially receive the notice until the day it was due. The employer had to transmit the notice to their Denison office and did not have an adequate time to prepare a notice of protest. 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 August 14, 2008, reference 02, 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.

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Teresa K. Hillary  
Administrative Law Judge

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Decision Dated and Mailed

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