

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**DEION M DULIN**  
Claimant

**VINBANA DAIRY INC**  
Employer

**APPEAL 19A-UI-06573-CL-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 06/30/19  
Claimant: Respondent (4)**

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Iowa Code Chapter 96 – Requalification  
Iowa Code § 96.6(2) – Timeliness of Protest

**STATEMENT OF THE CASE:**

On August 16, 2019, the employer filed an appeal from the August 7, 2019, (reference 01) unemployment insurance decision that allowed benefits based on a separation from employment. The parties were properly notified about the hearing. A telephone hearing was held on September 6, 2019. Claimant did not register for the hearing and did not participate. Employer participated through manager Bob Vander Veen. Official notice was taken of the administrative record.

**ISSUES:**

Is the employer's protest timely?  
Has the claimant requalified for benefits since the separation from this employer?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: On July 5, 2019, Iowa Workforce Development mailed the notice of claim to the employer's address of record, 5541 27<sup>th</sup> Avenue Drive, Vinton, Iowa 52349. Employer is no longer located at that address, although it has not changed its address with Iowa Workforce Development's Tax Department. The post office does not forward mail to employer's new location, at 5503 27<sup>th</sup> Avenue Drive, Vinton, Iowa 52349. Employer did not receive the notice of claim until after it was due, on July 15, 2019. Employer received the notice of claim close in time to when it completed the protest and mailed it to Iowa Workforce Development.

The claimant has requalified for benefits since the separation from the employer.

**REASONING AND CONCLUSIONS OF LAW:**

The first 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 § 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 because the notice was not received in a timely fashion. Without timely notice of a disqualification, 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 filed the protest shortly after receipt of the notice of claim. Therefore, the protest shall be accepted as 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.

**NOTE TO EMPLOYER:**

If you wish to change your address of record, please access your account at:

<https://www.myiowauui.org/UITIPTaxWeb/>.

Helpful information about using this site may be found at:

<http://www.iowaworkforce.org/ui/uiemployers.htm> and

<http://www.youtube.com/watch?v= mpCM8FGQoY>

**OR**

Call the Iowa Workforce Development Tax Bureau at 888-848-7442.

**DECISION:**

The August 7, 2019, (reference 01) unemployment insurance 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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Christine A. Louis  
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Decision Dated and Mailed

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