

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ASHLEY FENNELLY
Claimant

APPEAL NO: 13A-UI-12398-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

REYHONS FOOTWEAR LLC
Employer

OC: 09/29/13
Claimant: Respondent (4)

Iowa Code § 96.6-2 - Timeliness of Protest

STATEMENT OF THE CASE:

Reyhons Footwear (employer) appealed an unemployment insurance decision dated October 25, 2013, reference 02, which held it failed to file a timely protest regarding the claimant's separation of employment on March 13, 2013 and no disqualification of unemployment insurance benefits was imposed. Due notice was issued scheduling the matter for a telephone hearing to be held November 27, 2013. The claimant did not comply with the hearing notice instructions and did not call in to provide a telephone number at which she could be contacted, and therefore, did not participate. The employer provided a telephone number but was not available when that number was called for the hearing, and therefore, did not participate. No hearing was held but a decision was issued based on the administrative record.

ISSUE:

The issue is whether the employer's protest in this matter was timely.

FINDINGS OF FACT:

The administrative law judge, having reviewed and considered all of the evidence in the record, finds that: The claimant's notice of claim was mailed to the employer's address of record on October 4, 2013. The protest was due on October 14, 2013. The employer filed its protest on October 22, 2013.

The employer's appeal provided two different addresses compared to the address on the notice of claim. All three addresses were from Davenport, Iowa but the address on the appeal letter was 312 North Main Street and the address on the return envelope is 2754 East High Street.

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 administrative file demonstrates the employer may not have received the original notice of claim in a timely manner due to different addresses. 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.

DECISION:

The employer's protest is timely. The unemployment insurance decision dated October 25, 2013, reference 02, is modified in favor of the appellant. The claimant has requalified for benefits since the separation. Benefits are allowed, provided the claimant is otherwise eligible. The employer's account shall not be charged.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/pjs