

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ELIZABETH C VINCENT
Claimant

APPEAL NO: 14A-UI-12999-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

COVENANT CARE ENNOBLE LLC
Employer

OC: 08/10/14
Claimant: Respondent (1)

Iowa Code § 96.6(2) – Timely Protest

PROCEDURAL STATEMENT OF THE CASE:

The employer appealed a representative's December 8, 2014 (reference 04) that held the claimant eligible to receive benefits and the employer's account subject to charge because the employer had not filed a timely protest. The claimant did not respond to the hearing notice or participate at the January 14 hearing. Lisa Kubot, an Equifax claims specialist, appeared on the employer's behalf. Based on the administrative record, the evidence, the employer's arguments of the parties, and the law, the administrative law judge concludes the employer did not file a timely protest or establish a legal excuse for filing a late protest.

ISSUE:

Did the employer file a timely protest or establish a legal excuse for filing a late protest?

FINDINGS OF FACT:

The claimant established a claim for benefits during the week of August 10, 2014. The claimant started working for the employer after August 10, 2014. The claimant's employment with the employer ended on November 20, 2014. The claimant filed an additional claim during the week of November 16, 2014.

A notice of claim was sent to the employer's representative on November 21, 2014. Equifax received the notice before the December 1, 2014 deadline date to file a timely protest. On December 1, 2014 Equifax sent information to the Department that indicated the employer had not provided requested information to Equifax. After the employer provided the reasons for the claimant's employment separation, Equifax sent in additional information on December 3 to protest the claimant's receipt of benefits.

REASONING AND CONCLUSIONS OF LAW:

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 Iowa Code § 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. IDJS*, 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) which deals with the time limit to file a protest after the notice of claim has been mailed to the employer. The facts indicate the employer's third party received the notice of claim before the December 1 ten-day deadline to file a timely protest. When the employer failed to timely provide Equifax with information concerning the reasons for the claimant's employment separation, Equifax could not timely provide information to protest the claimant's receipt of benefits. As soon as the employer provided the reasons for the claimant's employment separation, Equifax immediately forwarded this information and protested on the employer's behalf. The employer's failure to provide Equifax with timely information does not establish a legal excuse for filing a late protest on December 3, 2014.

In this case, the employer is not one of the claimant's base-period employers. The employer's account will not be charged during the claimant's current benefit year.

DECISION:

The representative's December 8, 2014 (reference 04) determination is affirmed. The employer did not file a timely protest or establish a legal excuse for filing a late protest. As of November 16, 2014 the claimant remains qualified to receive benefits. The employer is not one of the claimant's base-period employers and will not be charged during her current benefit year.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/can