

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DEAN R OLSON
Claimant

APPEAL NO. 12A-UI-12900-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CEDAR RIVER POULTRY LLC
Employer

OC: 09/09/12
Claimant: Appellant (1)

Section 96.4-3 – Eligibility for Benefits
Section 96.6-2 – Timely Appeal

STATEMENT OF THE CASE:

Dean R. Olson filed an appeal from an unemployment insurance decision dated September 27, 2012, reference 01, that held him ineligible for unemployment insurance benefits. Due notice was issued for a telephone hearing to be held November 14, 2012. Although Mr. Olson provided a telephone number at which he could be contacted, the number was answered by a recording at the time of the hearing. The administrative law judge left instructions for Mr. Olson to call within ten minutes if he wished to participate. There was no call. The employer did not respond to the notice.

ISSUE:

Does the administrative law judge have jurisdiction to rule on the merits of the case?

FINDINGS OF FACT:

The decision from which Dean R. Olson has appealed states that it would become final unless an appeal was postmarked by October 7, 2012 or received by the agency by that date. He filed the appeal at the agency's office in Mason City, Iowa on October 23, 2012. He did not provide an explanation for the delay in filing the appeal.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.6-2 gives individuals ten days from the date of a fact-finding decision to file an appeal. The Supreme Court of Iowa has ruled that the time limit in the statute is jurisdictional. See Franklin v. Iowa Department of Job Service, 277 N.W.2d 877, 881 (Iowa 1979). In the absence of a timely appeal, the administrative law judge has no authority to change a fact-finding decision, even if he disagrees with it.

The evidence establishes that the appeal was filed after the end of the appeal period. There being no explanation in the record for the delay, the administrative law judge concludes that he lacks jurisdiction.

DECISION:

The unemployment insurance decision dated September 27, 2012, reference 01, has become final.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs