

**IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI**

**NATHAN CORBIN
333 MEMORIAL DR #104
LE MARS IA 51031**

**ADVANCE BRANDS LLC
ATTN BECKY WESTER
101 14TH ST SE WAY
ORANGE CITY IA 51041**

**Appeal Number: 06A-UI-00187-AT
OC: 11-27-05 R: 01
Claimant: Appellant (1)**

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the ***Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319.***

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.6-2 – Timely Appeal

STATEMENT OF THE CASE:

Nathan Corbin filed an appeal from an unemployment insurance decision dated December 21, 2005, reference 01, which disqualified him for benefits. After due notice was issued, a telephone hearing was held January 24, 2006 with Mr. Corbin participating. The employer, Advance Brands, LLC., did not respond to the hearing notice. Exhibit D-1, the claimant's appeal letter and envelope, were admitted into evidence.

FINDINGS OF FACT:

Having heard the testimony of the witness and having examined all of the evidence in the record, the administrative law judge finds: The decision from which Nathan Corbin appealed stated that it would become final unless an appeal was postmarked by December 31, 2005 or received by the Agency by that date. This decision also stated that the appeal period would be extended to the next working day if the last day fell on a Saturday, Sunday or a legal holiday. December 31, 2005 was a Saturday. The New Year's holiday was celebrated on Monday, January 2, 2006. Mr. Corbin filed his appeal by mail, the envelope receiving a postmark on Wednesday, January 4, 2006. Mr. Corbin delayed filing his appeal because he was out of town during the holidays.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the administrative law judge has jurisdiction to rule on the merits of this case. He does not.

Iowa Code section 96.6-2 gives a party ten days from the date of a fact-finding decision to file an appeal. Elsewhere, state law allows an extension for any document to be filed by mail if the final day falls on a Saturday, Sunday or legal holiday. Under this principle, an appeal postmarked on Tuesday, January 3, 2006 would be timely. Mr. Corbin's appeal was filed on Wednesday, January 4, 2006.

The Supreme Court of Iowa has ruled that a timely appeal is a jurisdictional requirement. 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 in this record persuades the administrative law judge that Mr. Corbin could have but did not file a timely appeal. This deprives the administrative law judge of jurisdiction. The earlier decision has become final and remains in effect.

DECISION:

The unemployment insurance decision dated December 21, 2005, reference 01, has become final. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

kkf/tjc