

**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**

**DENISE E JONES  
4033 – 57<sup>TH</sup> ST  
DES MOINES IA 50310-1808**

**CHILDRENS LEARNING CTR  
3520 GRAND AVE  
DES MOINES IA 50312**

**Appeal Number: 06A-UI-03168-AT  
OC: 02/12/06 R: 02  
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, 4<sup>th</sup> 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.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.6-2 – Timely Appeal

STATEMENT OF THE CASE:

Denise E. Jones filed an appeal from an unemployment insurance decision dated February 27, 2006, reference 01, which disqualified her for benefits. After due notice was issued, a telephone hearing was held on March 30, 2006, with Ms. Jones participating. Melanie Rivas participated for the employer, Children's Learning Center. Exhibit D-1, the claimant's appeal letter, was admitted into evidence.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: The decision from which Denise E. Jones has

appealed states that it would become final unless an appeal was postmarked by March 9, 2006 or received by the agency by that date. Ms. Jones filed her appeal on March 14, 2006. Although she had received the decision, she did not notice the time limit for filing the appeal.

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. 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 jurisdiction to rule on the merits of the case.

The evidence in this record persuades the administrative law judge that the claimant could have filed a timely appeal but did not do so. There being no evidence that the delay in filing the appeal was the fault of the agency or the U. S. Postal Service, the administrative law judge concludes that the prior decision has become final and that he has no jurisdiction to consider the merits of this case.

DECISION:

The unemployment insurance decision dated February 27, 2006, 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 her weekly benefit amount, provided she is otherwise eligible.

cs/tjc