

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RICKY J CLARK
Claimant

APPEAL NO. 10A-UI-02037-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

SEDONA STAFFING
Employer

**Original Claim: 11/01/09
Claimant: Appellant (1)**

Section 96.5-1-j – Voluntary Quit from Temporary Employment
Section 96.6-2 – Timely Appeal

STATEMENT OF THE CASE:

Ricky J. Clark filed an appeal from an unemployment insurance decision dated January 25, 2010, reference 02, that disqualified him for benefits. After due notice was issued, a telephone hearing was held March 29, 2010, with Mr. Clark participating. Chad Baker and Abby Schuller participated for the employer, Sedona Staffing. Exhibit D-1 was admitted into evidence.

ISSUE:

Did the claimant file a timely appeal?

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 Ricky J. Clark has appealed states that it would become final unless an appeal was postmarked by February 4, 2010, or received by the Agency by that date. Mr. Clark intended to file the appeal on February 5, 2010, but he was involved in a traffic accident. He was not admitted to the hospital, but he did not mail the appeal until February 8, 2010.

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 an individual ten days from the date of a fact-finding decision to file an appeal. Additional time may be granted, but only if the delay was the fault of the U.S. Postal Service or Iowa Workforce Development. See 871 IAC 24.35. By the claimant's own testimony, he was planning to file the appeal one day late. Due to unfortunate circumstance, not the fault of the Agency or the U.S. Postal Service, filing the appeal was delayed even more. The administrative law judge concludes that the appeal is not timely and that the administrative law judge has no jurisdiction to rule on the merits of the case.

DECISION:

The unemployment insurance decision dated January 25, 2010, reference 02, has become final and remains in effect. 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.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

kjw/kjw