

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JOHN D WESTERCAMP
Claimant

APPEAL NO. 11A-UI-07807-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 04/10/11
Claimant: Appellant (1)

871 IAC 24.2(1)e – Reporting as Directed
Section 96.6-2 – Timely Appeal

STATEMENT OF THE CASE:

John D. Westercamp filed an appeal from an unemployment insurance decision dated May 18, 2011, reference 01, that denied benefits to him effective May 15, 2011 upon a finding that he had failed to report to the Agency as directed. Due notice was issued for a telephone hearing to be held July 11, 2011. The claimant did not provide a telephone number at which he could be contacted. The administrative law judge takes official notice of Agency benefit payment records and decision records.

ISSUE:

Has the claimant filed a timely appeal?

FINDINGS OF FACT:

The decision from which the claimant has appealed states that it would become final unless an appeal was postmarked by May 28, 2011. May 28, 2011 was a Saturday. The following Monday was a holiday. The next regular workday following May 28, 2011 was Tuesday, May 31, 2011. The claimant filed his appeal on June 10, 2011. In a decision dated June 14, 2011 the Agency allowed benefits to Mr. Westercamp effective June 12, 2011.

REASONING AND CONCLUSIONS OF LAW:

Since the Agency has already allowed benefits to the claimant for the period beginning June 12, 2011, the question is whether the administrative law judge has jurisdiction to determine if benefits should be paid for the period May 15, 2011 through June 11, 2011. 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. 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 an earlier decision, even if he disagrees with it.

The evidence in this record establishes that the claimant did not file his appeal within the time limit set by statute. There is no evidence of the mitigating factors of delay caused by the postal service or the Agency. The administrative law judge concludes he lacks authority to rule on the merits of the case.

DECISION:

The unemployment insurance decision dated May 18, 2011, reference 01, has become final and remains in effect.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

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