

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ALBERTO VILLAGRANA
Claimant

APPEAL NO. 08A-UI-09874-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

S & J TUBE INC
Employer

**OC: 08/03/08 R: 04
Claimant: Appellant (1)**

Section 96.5-2-a – Discharge
Section 96.6-2 – Timely Appeal

STATEMENT OF THE CASE:

Alberto Villagrana filed an appeal from an unemployment insurance decision dated October 6, 2008, reference 01, that disqualified him for benefits. Due notice was issued for a telephone hearing to be held November 14, 2008. Mr. Villagrana did not respond to the hearing notice by providing a telephone number at which he could be contacted. Under the circumstances, it was not necessary to take testimony from the employer, S & J Tube, Inc.

ISSUE:

Has the claimant filed a timely appeal?

FINDINGS OF FACT:

Having examined all matters of record, the administrative law judge finds: The decision from which the claimant has appealed states that it would become final unless an appeal was postmarked by October 16, 2008 or received by the Agency by that date. Mr. Villagrana filed the appeal in a workforce development office on October 24, 2008. The appeal letter said that he had been too busy to go to his local office to appeal sooner.

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 parties 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 question 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 rule on the merits of a case.

The evidence in this record establishes that the appeal was not filed within the time limits set by statute. There is no evidence in the record indicating that the delay was the fault of the U.S. Postal Service or of Iowa Workforce Development. The administrative law judge concludes, therefore, that he has no jurisdiction to rule on the merits of the case. The fact-finding decision has become final.

DECISION:

The unemployment insurance decision dated October 6, 2008, reference 01, 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

pjs/pjs