

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**PAIGE C OHL**  
Claimant

**APPEAL NO. 09A-UI-05613-AT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**SWIFT & COMPANY**  
Employer

**Original Claim: 03/01/09  
Claimant: Appellant (1)**

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

**STATEMENT OF THE CASE:**

Paige C. Ohl filed an appeal from an unemployment insurance decision dated March 24, 2009, reference 01, that denied unemployment insurance benefits to her. After due notice was issued, a telephone hearing was held May 7, 2009, with Ms. Ohl participating. Tony Luse participated for the employer, Swift & Company. Exhibit D-1, the claimant's appeal letter, was admitted into evidence.

**ISSUE:**

Has the claimant filed 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 Paige C. Ohl has appealed states that it would become final unless an appeal was postmarked by April 3, 2009, or received by the Agency by that date. Ms. Ohl received the decision before April 3, 2009. She did not file her appeal until April 8, 2009, because she lacked transportation.

**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 the statute is jurisdictional. See Franklin v. Iowa Department of Job Service, 277 N.W.2d 877, 881 (Iowa 1979). Additional time may be granted for an appeal, provided the delay is the fault of the U.S. Postal Service or Iowa Workforce Development. See 871 IAC 24.35.

The evidence in this record establishes that the appeal was filed after the due date and that the delay was caused by the claimant's lack of transportation. This is not a legally sufficient reason

for extending the due date of the appeal. The administrative law judge concludes he has no jurisdiction to rule on the merits of the case.

**DECISION:**

The unemployment insurance decision dated March 24, 2009, 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 her weekly benefit amount, provided she is otherwise eligible.

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Dan Anderson  
Administrative Law Judge

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Decision Dated and Mailed

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