

**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**

**FAITH L WEBB
4290 NW 11TH CT
DES MOINES IA 50313-3246**

**MERCY HOSPITAL
ATTN HUMAN RESOURCES
1055 – 6TH AVE #105
DES MOINES IA 50314**

**Appeal Number: 06A-UI-05167-A
OC: 04/16/06 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, 4th 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.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.6-2 – Timely Appeal

STATEMENT OF THE CASE:

Faith L. Webb filed an appeal from an unemployment insurance decision dated May 3, 2006, reference 01, which disqualified her for benefits. After due notice was issued, a hearing was held in Des Moines, Iowa, on June 7, 2006 with Ms. Webb participating and presenting additional testimony by Linda Gilson. Employee Relations Coordinator Ron Robertson and Nurse Manager Bonnie McCoy participated for the employer, Mercy Hospital. Exhibit D-1, the claimant's appeal letter, and Exhibit One were 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 Faith L. Webb has appealed states that it would become final unless an appeal was postmarked by May 13, 2006, a Saturday, or received by the Agency by that date. Ms. Webb filed her appeal on Tuesday, May 16, 2006. She received the adverse decision in time to file an appeal by May 16. Two days after receiving the decision, she received another decision involving another employer. This decision allowed benefits provided she met all other eligibility requirements. Ms. Webb was uncertain of the relationship between the two decisions but did not contact the Agency until May 16.

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. The statute goes on to say that if no appeal is filed within that time, benefits shall be paid or denied in accordance with the decision. The Supreme Court of Iowa has ruled that the time limit 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.

It is clear from the evidence in the record that Ms. Webb had the fact-finding decision in her possession well before May 16, 2006. It is clear that the other decision made reference to Ms. Webb being entitled to receive benefits conditionally. Ms. Webb chose not to contact the Agency until the day after the appeal period had expired. This delay was not caused by the Agency or by the postal service. Under these circumstances, the administrative law judge concludes that the appeal cannot be accepted as timely and that the administrative law judge has no authority to rule on the merits of the case.

DECISION:

The unemployment insurance decision dated May 3, 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/pjs