

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**DARLENE K HARPER**  
Claimant

**APPEAL NO. 10A-UI-06353-AT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IAC IOWA CITY**  
Employer

**OC: 01/11/09**  
**Claimant: Appellant (1)**

Section 96.3-7 – Recovery of Overpayment  
Section 96.6-2 – Timely Appeal

**STATEMENT OF THE CASE:**

Darlene K. Harper filed an appeal from an unemployment insurance decision dated March 16, 2010, reference 02, that ruled she had been overpaid unemployment insurance benefits in the gross amount of \$191.00 for the week ending January 9, 2010. After due notice was issued, a telephone hearing was held May 17, 2010 with Ms. Harper participating. Teresa Feldmann participated for the employer, IAC Iowa City.

**ISSUE:**

Does the administrative law judge have jurisdiction to rule on the merits of this case?

**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 the claimant has appealed states that it would become final unless an appeal was postmarked by March 26, 2010 or received by the agency by that date. The claimant filed her appeal on April 26, 2010. She had received the decision in time to file a timely appeal.

**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 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 persuades the administrative law judge that the claimant could have but did not file a timely appeal. The decision has become final.

**DECISION:**

The unemployment insurance decision dated March 16, 2010, reference 02, has become final. The claimant has been overpaid \$191.00 for the week ending January 9, 2010.

---

Dan Anderson  
Administrative Law Judge

---

Decision Dated and Mailed

pjs/pjs