

**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**

**TIMOTHY J GROVE
210 S BLAIRSFERRY CROSSING
HIAWATHA IA 52233**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**Appeal Number: 04A-UI-01226-AT
OC: 05/25/03 R: 03
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:

Timothy J. Grove filed an appeal from an unemployment insurance decision dated January 14, 2004, reference 03, which disqualified him for benefits upon a finding that he had left work without good cause attributable to the employer on September 12, 2003. After due notice was issued, a telephone hearing was held on February 23, 2004 with Mr. Grove participating. Exhibit D-1, his appeal letter and its envelope, were admitted into evidence. The employer did not respond to the hearing notice.

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 decisions from which Timothy J. Grove has appealed states that it would become final unless an appeal was postmarked by January 24, 2004 or received by the Agency by that date. Mr. Grove received the decision in time to file a timely appeal, but he did not do so. Mr. Grove had filed an appeal on an unrelated case on January 6, 2004 and assumed that he did not need to file another 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 an individual 10 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 jurisdiction to change an earlier decision, even if he should disagree with it.

The evidence in this record establishes that Mr. Grove could have, but did not file a timely appeal from the January 14 decision. The administrative law judge does not consider his appeal on January 6, 2004 from another decision to be in substantial compliance with the language of the statute.

DECISION:

The unemployment insurance decision dated January 14, 2004, reference 03, 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 10 times his weekly benefit amount, provided he is otherwise eligible.

kjf/b