

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LAURA MORALES
Claimant

APPEAL NO. 11A-EUCU-00895-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TYSON FRESH MEATS INC
Employer

OC: 08/02/09
Claimant: Appellant (2)

Section 96.4-3 – Eligibility for Benefits
Section 96.6-2 – Timely Appeal

STATEMENT OF THE CASE:

Laura Morales filed an appeal from an unemployment insurance decision dated March 23, 2010, reference 01, that denied benefits to her for the week ending February 20, 2010. After due notice was issued, a telephone hearing was held January 13, 2012, with Ms. Morales participating. The employer, Tyson Fresh Meats, Inc., chose not to participate.

ISSUES:

Has the claimant filed a timely appeal?

Was the claimant eligible for benefits for the week of February 14, through 20, 2010?

FINDINGS OF FACT:

Laura Morales did not work for Tyson Fresh Meats, Inc. during the week of February 14, 2010. She had requested vacation time for the week, but her supervisor had forgotten to pass the paperwork along to human resources. As a result, Ms. Morales was not paid for that week.

On March 23, 2010, Iowa Workforce Development issued a decision advising Ms. Morales that she would not be eligible for benefits for the week of February 14, 2010. Ms. Morales did not receive the decision. She first learned of its existence when she received an overpayment decision in December 2011. She filed a timely appeal from that decision.

REASONING AND CONCLUSIONS OF LAW:

The first question is whether the administrative law judge has jurisdiction to rule on the merits of the case. He does.

The evidence establishes that the claimant did not receive the fact-finding decision in question at the time that it was issued. Since she filed an appeal promptly after learning of the decision's existence, the appeal is accepted as timely. See 871 IAC 24.35.

The next question is whether Ms. Morales is eligible for unemployment insurance benefits for the week ending February 20, 2010. She is.

The evidence in the record establishes that Ms. Morales was unemployed through no fault of her own for the week in question. She received no wages and no vacation pay because her supervisor failed to pass along her vacation request. Under these circumstances, benefits should be allowed.

DECISION:

The unemployment insurance decision dated March 23, 2010, reference 01, is reversed. The claimant is entitled to receive unemployment insurance benefits for the week of February 14, through 20, 2010.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

kjw/kjw