

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JANE L WISEMAN
Claimant

APPEAL NO. 12A-EUCU-00089-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

DONALDSON COMPANY INC
Employer

OC: 01/25/09
Claimant: Appellant (1)

Section 96.5-3-a – Refusal of Recall
Section 96.6-2 – Timely Appeal

STATEMENT OF THE CASE:

Jane L. Wiseman filed an appeal from an unemployment insurance decision dated March 26, 2010, reference 01, that disqualified her for benefits. After due notice was issued, a telephone hearing was held March 20, 2012 with Ms. Wiseman participating. Donaldson Company, Inc. did not respond to the notice. Exhibit D-1 was admitted into evidence. This matter is considered on a consolidated record with 12A-EUCU-00090-AT. The administrative law judge takes official notice of agency benefit payment records.

ISSUE:

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

FINDINGS OF FACT:

The decision from which Jane L. Wiseman has appealed states that it would become final unless an appeal was postmarked by April 5, 2010 or received by the agency by that date. Ms. Wiseman received the decision. She did not file an appeal until February 24, 2012 when she received a companion overpayment decision.

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 § 96.6-2 gives parties ten days from the date of a fact-finding decision to file an appeal. The Iowa Supreme Court 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, an administrative law judge cannot change a fact-finding decision even if he disagrees with it.

The evidence in this record establishes that Ms. Wiseman received the fact-finding decision in time to file a timely appeal. Since she did not do so, the administrative law judge has no authority to rule on the merits of the case.

DECISION:

The unemployment insurance decision dated March 26, 2010, 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.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs