

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**HEATHER M KLEIN**  
Claimant

**APPEAL NO. 12A-UI-07329-AT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**MCGRAW-HILL INC**  
Employer

**OC: 05/29/11**  
**Claimant: Appellant (1)**

Section 96.5-7 – Vacation Pay  
Section 96.6-2 – Timely Appeal

**STATEMENT OF THE CASE:**

Heather M. Klein filed an appeal from an unemployment insurance decision dated March 20, 2012, reference 01, that denied unemployment insurance benefits to her for the three weeks ending February 25, 2012. After due notice was issued, a telephone hearing was held July 18, 2012 on a consolidated record with appeals 12A-UI-07330-AT and 12A-UI-07331-AT. Ms. Klein participated on her own behalf. Her former employer, McGraw-Hill, Inc., elected not to participate. Exhibit D-1 was admitted into evidence.

**ISSUE:**

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

**FINDINGS OF FACT:**

The decision from which Heather M. Klein has appealed states that it would become final unless an appeal was postmarked by March 30, 2012 or received by the agency by that date. Ms. Klein received the decision. She did not file an appeal until June 20, 2012. She waited to file the appeal until after learning that others had successfully challenged similar rulings.

**REASONING AND CONCLUSIONS OF LAW:**

Iowa Code section 96.6-2 gives individuals 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 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, the administrative law judge cannot change a fact-finding decision, even if he disagrees with it.

The evidence in the record establishes that Ms. Klein could have filed an appeal within the time limit set by statute but did not do so. The administrative law judge has no jurisdiction to rule on the merits of the case.

**DECISION:**

The unemployment insurance decision dated March 20, 2012, reference 01, has become final and remains in effect.

---

Dan Anderson  
Administrative Law Judge

---

Decision Dated and Mailed

pjs/pjs