

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TARA E GARRETT
Claimant

APPEAL NO. 12A-UI-03373-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 03/08/09
Claimant: Appellant (1)

Public Law 110-252 – Emergency Unemployment Compensation
Section 96.6-2 – Timely Appeal

STATEMENT OF THE CASE:

Tara E. Garrett filed an appeal from an unemployment insurance decision dated March 21, 2012, reference 07, that ruled she was ineligible for emergency unemployment compensation benefits effective October 2, 2011 because she was monetarily eligible for regular state unemployment insurance benefits as of that date. After due notice was issued, a telephone hearing was held April 17, 2012 with Ms. Garrett participating. Exhibit D-1 was admitted into evidence. This matter is considered on a consolidated record with 12A-UI-03374-AT.

ISSUE:

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

FINDINGS OF FACT:

The decision from which Tara E. Garrett has appealed states that it would become final unless an appeal was postmarked by April 1, 2012, a Sunday, or received by the agency by that date. Ms. Garrett filed her appeal by mail, the envelope receiving postmark date of April 3, 2012.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.6-2 gives a party only ten days from the date of a fact-finding decision to file an appeal. A limited extension is available if the final day for an appeal falls on a Saturday, Sunday or legal holiday. In that case, state law allows until the next regular workday. 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 cannot change a fact-finding decision even if he disagrees with it. The evidence in the record establishes that Ms. Garrett received the March 21 decision but did not file an appeal until after receiving a second overpayment decision. Because of the delay, the first decision had become final. The administrative law judge has no jurisdiction to rule on the merits of the case.

DECISION:

The unemployment insurance decision dated March 21, 2012, reference 07, has become final and remains in effect.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

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