

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**DUANE A DENLINGER**  
Claimant

**APPEAL NO. 11A-UI-15296-AT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**TEAM STAFFING SOLUTIONS INC**  
Employer

**OC: 10/16/11**  
**Claimant: Appellant (1)**

Section 96.5-1-j – Voluntary Quit from Temporary Employment  
Section 96.6-2 – Timely Appeal

**STATEMENT OF THE CASE:**

Duane A. Denlinger filed an appeal from an unemployment insurance decision dated November 15, 2011, reference 01, that disqualified him for benefits. After due notice was issued, a telephone hearing was held December 28, 2011, with Mr. Denlinger participating. Sarah Fiedler participated for the employer, Team Staffing Solutions, Inc. Exhibit D-1 was admitted into evidence.

**ISSUE:**

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

**FINDINGS OF FACT:**

The decision from which Duane A. Denlinger has appealed states that it would become final unless an appeal was postmarked by November 25, 2011, or received by the Agency by that date. Mr. Denlinger filed an appeal by fax on November 29, 2011. He had prepared the appeal prior to that date. He delayed filing the appeal because of visitors for the Thanksgiving holiday.

**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 ten 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 cannot change a fact-finding decision, even if he disagrees with it.

November 25, 2011, the Friday after Thanksgiving, is a holiday for Iowa state employees. Its offices are closed. Monday, November 28, 2011, was a regular workday. An appeal filed by November 28, 2011, would have been timely. Mr. Denlinger, however, did not file his appeal

until Tuesday, November 29, 2011. The delay was not the fault of the United States Postal Service or Iowa Workforce Development. The administrative law judge concludes that the appeal was not timely and that he has no jurisdiction to rule on the merits of the case.

**DECISION:**

The unemployment insurance decision dated November 15, 2011, reference 01, has become final and remains in effect.

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Dan Anderson  
Administrative Law Judge

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Decision Dated and Mailed

kjw/kjw