

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**TIMOTHY J GEERTS**  
Claimant

**APPEAL NO. 09A-UI-07069-AT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**ARMOUR ECKRICH MEATS LLC**  
Employer

**Original Claim: 07/06/08  
Claimant: Appellant (1)**

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

**STATEMENT OF THE CASE:**

Timothy J. Geerts filed an appeal from an unemployment insurance decision dated March 3, 2009, reference 02, that denied benefits to him effective January 11, 2009, upon a finding that he was unable to work due to injury. After due notice was issued, a telephone hearing was held May 27, 2009, with Mr. Geerts participating. The employer, Armour Eckrich Meats, LLC, did not respond to the hearing notice. Exhibit D-1, the claimant's appeal letter, was admitted into evidence.

**ISSUE:**

Did the claimant file a timely appeal?

**FINDINGS OF FACT:**

Having heard the testimony of the witness and having examined all of the evidence in the record, the administrative law judge finds: The decision from which Timothy J. Geerts has appealed states that it would become final unless an appeal was postmarked by March 13, 2009, or received by the Agency by that date. Mr. Geerts received the decision. He did not file an appeal until after receiving an overpayment decision that was issued in April.

**REASONING AND CONCLUSIONS OF LAW:**

The question is whether the administrative law judge has jurisdiction to rule on the merits of this case. He concludes that 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. Otherwise, benefits are paid or denied in accordance with the decision. 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). The evidence in this record persuades the administrative law judge that the claimant could have but did not file his appeal within the time limit set by statute. The administrative law judge concludes that he has no authority to rule on the merits of the case.

**DECISION:**

The unemployment insurance decision dated March 3, 2009, reference 02, has become final and remains in effect. Benefits are withheld from January 11, 2009, through January 31, 2009.

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Dan Anderson  
Administrative Law Judge

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Decision Dated and Mailed

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