

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

APRIL A WESOLOWSKI
Claimant

APPEAL NO. 09A-UI-09788-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

LINK SNACKS INC
Employer

OC: 06/22/08
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit
Section 96.6-2 – Timely Appeal

STATEMENT OF THE CASE:

April A. Wesolowski filed an appeal from an unemployment insurance decision dated February 3, 2009, reference 05, that disqualified her for benefits. After due notice was issued, a telephone hearing was held July 20, 2009 with Ms. Wesolowski participating. Human Resources Manager Marty Moore participated for the employer, Link Snacks, Inc. Exhibit D-1 was admitted into evidence. This matter is considered on a consolidated record with 09A-UI-09789-AT.

ISSUE:

Does the administrative law judge have jurisdiction to rule on the claimant's separation from employment?

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: April A. Wesolowski received a decision dated February 3, 2009 that disqualified her for benefits following her separation from employment on December 10, 2008. She did not file an appeal at that time. She filed an appeal in July 2009 after opening a benefit year effective June 21, 2009.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the administrative law judge has jurisdiction to rule on the merits of the February 3, 2009 case. He does not.

Iowa Code section 96.6-2 gives parties 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 has no authority to change an earlier decision.

The evidence in the record persuades the administrative law judge that Ms. Wesolowski could have filed an appeal in February but did not. Thus, the administrative law judge concludes he lacks jurisdiction to rule on the merits of this case.

DECISION:

The unemployment insurance decision dated February 3, 2009, reference 05, has become final and remains in effect. 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

css/css