

#### FINDINGS OF FACT:

Having examined all matters of record, the administrative law judge finds: The decision from which David L. Shropshire has appealed states that it would become final unless an appeal was postmarked by October 3, 2005 or received by the agency by that date. The appeal was filed by mail, and the envelope received a postmark of October 14, 2005. The appeal letter does not assert that the delay in filing was the fault of the U.S. Postal Service or Iowa Workforce Development.

#### 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 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. Additional time for an appeal may be granted, however, if the delay is the fault of the U.S. Postal Service or Iowa Workforce Development. See 871 IAC 24.35.

The evidence in this record establishes that the appeal is untimely. Nothing in the record indicates that the delay is the fault of the postal service or the agency. Thus, the administrative law judge concludes he has no jurisdiction to rule on the merits of this case.

#### DECISION:

The unemployment insurance decision dated September 23, 2005, reference 01, has become final. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

kkf/kjw