

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JOHN P MEYER
Claimant

APPEAL NO. 10A-UI-15887-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**DANIKA F MARKEN/CHILDREN'S
HOUSE CHRISTIAN MONTESSORI**
Employer

OC: 09/13/09
Claimant: Appellant (1)

Section 96.5-3-a – Refusal of Recall
Section 96.6-2 – Timely Appeal

STATEMENT OF THE CASE:

John P. Meyer filed an appeal from an unemployment insurance decision dated November 10, 2009, reference 02, that disqualified him for benefits. Due notice was issued for a telephone hearing to be held January 4, 2011. The claimant did not respond to the hearing notice. Under the circumstances, it was unnecessary to take testimony from the employer. This decision is based on information in the claimant's appeal letter.

ISSUE:

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

FINDINGS OF FACT:

Having examined all matters of record, the administrative law judge finds: The decision from which the claimant has appealed states that it would become final unless an appeal was postmarked by November 20, 2009 or received by the agency by that date. The appeal was filed on November 17, 2010.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code § 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 has no jurisdiction to change a fact-finding decision, even if he disagrees with it.

The evidence here establishes that the claimant did not file an appeal within the time limit set by statute. The fact-finding decision has become final.

DECISION:

The unemployment insurance decision dated November 10, 2009, reference 02, has become final and remains in effect. The claimant refused recall to suitable work on June 1, 2009. Benefits are withheld until he has worked in and has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs