

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MARILYN K MULLIGAN
Claimant

APPEAL NO. 12A-UI-04947-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MCGRAW-HILL INC
Employer

OC: 02/05/12
Claimant: Appellant (1)

Section 96.5-7 – Vacation Pay
Section 96.6-2 – Timely Appeal

STATEMENT OF THE CASE:

Marilyn K. Mulligan filed an appeal from an unemployment insurance decision dated March 20, 2012, reference 02, that denied benefits for the four weeks ending March 3, 2012 upon a finding that she had received vacation pay from McGraw-Hill, Inc. attributable to those weeks. After due notice was issued, a telephone hearing was held May 30, 2012 on a consolidated record with appeals 12A-UI-04948-AT and 12A-UI-04949-AT. Ms. Mulligan participated on her own behalf. McGraw-Hill, Inc. elected not to participate. Exhibit D-1 was admitted into evidence.

ISSUE:

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

FINDINGS OF FACT:

The decision from which Marilyn K. Mulligan has appealed states that it would become final unless an appeal was postmarked by March 30, 2012 or received by the agency by that date. Ms. Mulligan received the decision on March 21, 2012. She took no action after receiving the decision because she had sent correspondence to the Unemployment Insurance Services Division on March 16, 2012, prior to the fact-finding decision being issued. She filed an appeal through the Dubuque Workforce Center on April 30, 2012.

REASONING AND CONCLUSIONS OF LAW:

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 has no jurisdiction to rule on the merits of a case.

The evidence in the record establishes that Ms. Mulligan received the adverse decision on March 21, 2012 and took no further action until April 30, 2012, well beyond the end of the

statutory appeal period. The administrative law judge does not view the claimant's prior correspondence with the Unemployment Insurance Services Division to be an appeal because the correspondence preceded the adverse fact-finding decision. The administrative law judge concludes he lacks jurisdiction to rule on the merits of this case.

DECISION:

The unemployment insurance decision dated March 20, 2012, reference 02, has become final and remains in effect.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs