

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BRUCE A HARRISON
Claimant

APPEAL NO. 08A-UI-07656-A

**ADMINISTRATIVE LAW JUDGE
DECISION**

CASEYS MARKETING COMPANY
Employer

**OC: 07/20/08 R: 01
Claimant: Appellant (1)**

Section 96.5-2-a – Discharge
Section 96.6-2 – Timely Appeal

STATEMENT OF THE CASE:

Bruce A. Harrison filed an appeal from an unemployment insurance decision dated August 11, 2008, reference 01, that disqualified him for benefits. After due notice was issued, a hearing was held in Sioux City, Iowa on September 10, 2008 with Mr. Harrison participating. Monica Von Seggern participated for the employer, Caseys Marketing Company. Valerie Conaway Cote and Melanie Gebel were present but were not called to testify. Exhibit D-1, the claimant's appeal letter, was admitted into the record.

ISSUE:

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

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: The decision from which Bruce A. Harrison has appealed states that it would become final unless an appeal was postmarked by August 21, 2008 or received by the Agency by that date. Mr. Harrison received the decision on August 21, 2008, a Thursday. He filed the appeal on the following Tuesday, August 26, 2008 at the Workforce Development Center in Sioux City. Earlier in August Mr. Harrison had been treated by his physician due to an allergic reaction to a bee sting. He had been released by his physician on August 18, 2008.

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 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, then, the administrative law judge has no legal authority to review the merits of the fact-finding decision.

The evidence in the record establishes that Mr. Harrison had the adverse decision in his possession at least on the tenth day of the appeal period. While an appeal on the following day might under some circumstances be considered timely, the evidence establishes that Mr. Harrison waited until the following week in order to file the appeal. The administrative law judge concludes this to be an unreasonable delay in filing. He concludes that he has no jurisdiction to rule on the merits of the case.

DECISION:

The unemployment insurance decision dated August 11, 2008, reference 01, 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 his weekly benefit amount, provided he is otherwise eligible.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

css/css