

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**VICKI L MAHER**  
Claimant

**APPEAL NO. 11A-UI-13932-AT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 11/07/10**  
**Claimant: Appellant (1)**

Section 96.3-7 – Recovery of Overpayment  
Section 96.6-2 – Timely Appeal

**STATEMENT OF THE CASE:**

Vicki L. Maher filed an appeal from an unemployment insurance decision dated September 28, 2011, reference 05, that ruled she had been overpaid unemployment insurance benefits in the gross amount of \$2,027.07 for the 11 weeks ending January 22, 2011. After due notice was issued, a telephone hearing was held November 22, 2011, with Ms. Maher participating. Exhibit D-1 was admitted into evidence.

**ISSUE:**

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

**FINDINGS OF FACT:**

The decision from which Vicki L. Maher has appealed states that it would become final unless an appeal was postmarked by October 8, 2011, or received by the Agency by that date. October 8, 2011, was a Saturday. October 9, 2011, was a Sunday. October 10, 2011, was Columbus Day, a holiday for the U.S. Postal Service and an in-service training date for workforce development centers. Ms. Maher completed her appeal letter on October 18, 2011, and filed her appeal by mail. The envelope received a postmark on October 21, 2011. Ms. Maher had become confused as to the due date of the appeal. Even if the due date had been October 15, 2011, as she believed, the appeal on October 21, 2011, would have been untimely.

**REASONING AND CONCLUSIONS OF LAW:**

Iowa Code section 96.6-2 gives an individual ten days to file an appeal from a fact-finding decision. The Supreme Court of Iowa has ruled that the time limit is jurisdictional. See Franklin v. Iowa Department of Job Service, 277 N.W.2d 877, 881 (Iowa 1979). The evidence establishes that the appeal was untimely. There is no evidence in the record that the delay was the fault of the postal service or the Agency. The administrative law judge concludes that he lacks jurisdiction to rule on the merits of the case.

**DECISION:**

The unemployment insurance decision dated September 28, 2011, reference 05, has become final. The claimant has been overpaid \$2,027.07 for the 11 weeks ending January 22, 2011.

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Dan Anderson  
Administrative Law Judge

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Decision Dated and Mailed

kjw/kjw