

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SAMANTHA A JONES
Claimant

APPEAL NO. 11A-UI-01071-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

PINNACLE FINANCIAL GROUP INC
Employer

OC: 11/14/10
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit
Section 96.6-2 – Timely Appeal

STATEMENT OF THE CASE:

Samantha A. Jones filed an appeal from an unemployment insurance decision dated December 29, 2010, reference 04, that disqualified her for benefits following her separation from employment with Pinnacle Financial Group, Inc. After due notice was issued, a telephone hearing was held March 3, 2011 with Ms. Jones participating. Heather Dieschbourg participated for the employer, Pinnacle Financial Group, Inc. 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:

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 the claimant has appealed states that it would become final unless an appeal was postmarked by January 8, 2011 or received by the agency by that date. The decision also said that if the final day for appeal fell on a Saturday, Sunday or legal holiday, the appellant could file a timely appeal on the next following regular work day. January 8, 2011 was a Saturday. The claimant filed her appeal on January 27, 2011. She had received the decision but was more immediately concerned with finding new employment.

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 § 96.6-2 gives an individual ten days from the date of a fact-finding decision to file an appeal. Elsewhere, state law provides that an appeal is considered timely if filed on the next regular work day if the final day for appeal falls on a Saturday, Sunday or legal holiday. The Iowa Supreme Court 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 persuades the administrative law judge that the claimant has not filed a timely appeal.

DECISION:

The unemployment insurance decision dated December 29, 2010, reference 04, 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 her weekly benefit amount, provided she is otherwise eligible.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs