

IOWA WORKFORCE DEVELOPMENT  
Unemployment Insurance Appeals Section  
1000 East Grand—Des Moines, Iowa 50319  
DECISION OF THE ADMINISTRATIVE LAW JUDGE  
68-0157 (7-97) – 3091078 - EI

AZRA MIFTARI  
2905 PAYNE RD  
DES MOINES IA 50310

WAL-MART STORES INC  
C/o TALX UC EXPRESS  
PO BOX 283  
ST LOUIS MO 63166-0283

Appeal Number: 04A-UI-04913-AT  
OC: 07/13/03 R: 02  
Claimant: Appellant (1)

**This Decision Shall Become Final**, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4<sup>th</sup> Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.6-2 – Timely Appeal

STATEMENT OF THE CASE:

Azra Miftari filed an appeal from an unemployment insurance decision dated April 15, 2004, reference 03, which held her ineligible for unemployment insurance benefits effective March 8, 2004. Due notice was issued for a telephone hearing to be held at 2:30 p.m. on May 21, 2004. The claimant did not respond to the hearing notice until approximately 3:15 p.m. on that date. By that time, the administrative law judge had closed the record.

FINDINGS OF FACT:

The decision from which the claimant has appealed states that it would become final unless an appeal was postmarked by April 25, 2004 or received by the Agency by that date. The appeal

was filed on April 29, 2004. It does not assert that the claimant had not received the adverse decision in time to file an appeal by April 25, 2004.

#### 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 Section 96.6-2 gives an individual ten days from the date of the fact-finding decision to file an appeal. The Supreme Court of Iowa has ruled that this time limit 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 legal authority to change a fact-finding decision, even if he disagrees with it.

The evidence in this record establishes that the appeal was untimely but does not establish any legally sufficient reason for delay such as non-receipt of the decision. Under these circumstances, the administrative law judge concludes that he does not have jurisdiction to rule on the merits of the case.

#### DECISION:

The unemployment insurance decision dated April 15, 2004, reference 03, has become final. The claimant is ineligible to receive unemployment insurance benefits until such time as she establishes that she is medically able to work.

kjf/b