

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

RENEE L JENSEN
904 ADAIR ST
ADAIR IA 50002

IOWA WORKFORCE
DEVELOPMENT DEPARTMENT

Appeal Number: 04A-UI-01688-AT
OC: 11-23-03 R: 01
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, 4th 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.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.6-2 – Timely Appeal
871 IAC 24.9(1)b – Appeal From a Monetary Determination

STATEMENT OF THE CASE:

Renee L. Jensen filed an appeal from a monetary determination dated December 1, 2003, which computed her unemployment insurance benefits on the basis that Ms. Jensen claimed no dependents. With the claimant's consent, a telephone hearing was held February 19, 2004. Ms. Jensen participated on her own behalf.

FINDINGS OF FACT:

Having heard the testimony of the witness and having examined all of the evidence in the record, the administrative law judge finds: Renee L. Jensen asked a friend to file an on-line unemployment insurance claim on her behalf during the week of November 23, 2003. Ms. Jensen did not read the instructions for filing the claim. Had she done so, she would have seen that unemployment insurance benefits are higher for individuals who claim dependent children or a dependent spouse. Ms. Jensen received the monetary determination mailed to her on or about December 1, 2003. In mid January, she learned that her unemployment insurance benefits would have been higher if she had claimed her three children as dependents. On January 28, 2003, Ms. Jensen made such a request.

REASONING AND CONCLUSIONS OF LAW:

The initial question for the administrative law judge is whether he has jurisdiction to grant the relief requested by Ms. Jensen. He concludes that he does not. Iowa Code Section 96.6-2 gives an individual only ten days from the date of an Agency determination 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 modify a prior determination, even if he disagrees with that determination.

A provision of the Iowa Administrative Code, 871 IAC 24.9(1)b, provides that monetary determinations become final ten days after issuance in the absence of newly discovered facts. Ms. Jensen knew the existence of her children. What she discovered was the legal consequences of claiming the children as dependents on her unemployment insurance claims, a matter she would have learned had she read the instructions for filing her claim. Under the circumstances, the administrative law judge concludes that he lacks jurisdiction to grant the relief requested by the claimant.

DECISION:

The monetary determination dated December 1, 2003 has become final and remains in effect. The claimant's unemployment insurance benefits shall be computed on the basis of her claiming no dependents.

tjc/b