

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BECKY S LAWLESS
Claimant

APPEAL NO. 11A-UI-11881-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 09/27/09
Claimant: Appellant (1)

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

STATEMENT OF THE CASE:

The claimant filed an appeal from an unemployment insurance decision dated August 4, 2011, reference 03, that ruled she must repay \$877.00 in unemployment insurance benefits. Due notice was issued for a telephone hearing to be held September 28, 2011. The claimant did not respond to the hearing notice. Her appeal letter is included in this record as Exhibit D-1.

ISSUE:

Has the claimant filed a timely appeal?

FINDINGS OF FACT:

The decision from which the claimant has appealed states that it would become final unless an appeal was postmarked by August 14, 2011, or received by the Agency by that date. The appeal was filed by mail in an envelope postmarked September 2, 2011. The appeal letter does not explain the delay.

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 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). The evidence establishes that the appeal was filed after the appeal period. The administrative law judge concludes that he has no authority to review the merits of the case.

DECISION:

The unemployment insurance decision dated August 4, 2011, reference 03, has become final. The claimant has been overpaid \$877.00 for the four weeks ending February 13, 2010.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

kjw/kjw