

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MARK L MARTIN

Claimant

APPEAL NO. 12A-UI-06339-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 06/07/09

Claimant: Appellant (1)

Public Law 110-252 – Emergency Unemployment Compensation
Section 96.6-2 – Timely Appeal

STATEMENT OF THE CASE:

Mark L. Martin filed an appeal from an unemployment insurance decision dated April 21, 2010, reference 01, that ruled he was ineligible for emergency unemployment compensation benefits from Iowa effective December 6, 2009, upon a finding that he was monetarily eligible for regular state unemployment insurance benefits in Nebraska as of that date. After due notice was issued, a telephone hearing was held June 26, 2012, with Mr. Martin participating. This matter is considered on a consolidated record with 12A-UI-06340-AT. Exhibit D-1 was admitted into evidence.

ISSUE:

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

FINDINGS OF FACT:

The decision from which Mark L. Martin has appealed states that it would become final unless an appeal was postmarked by May 1, 2010, or received by the Agency by that date. After Mr. Martin received the decision, he contacted the State of Nebraska to file a new state unemployment insurance claim. He did not file an appeal from that decision until May of 2012, when he received a subsequent decision that stated he must repay \$7,452.00 in benefits.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.6-2 gives parties ten days from the date of a fact-finding decision to file an appeal. The Supreme Court of Iowa has ruled that the time limit in the statute is jurisdictional. In the absence of a timely appeal, an administrative law judge cannot change a fact-finding decision, even if he thinks it is wrong.

Mr. Martin testified that he could not remember if he received the decision from May of 2010. However, his testimony establishes that he contacted Nebraska at that time to file a state claim. This indicates he received the decision now on appeal. Since the appeal was not filed on or

before May 1, 2010, the administrative law judge concludes that he lacks jurisdiction to rule on the merits of the case.

DECISION:

The unemployment insurance decision dated April 21, 2010, reference 01, is affirmed.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

kjw/kjw