

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DINNARA SOMETH
Claimant

APPEAL NO. 08A-UI-08973-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

IAC IOWA CITY
Employer

**OC: 04/13/08 R: 03
Claimant: Appellant (1)**

Section 96.5-7 – Vacation Pay
Section 96.6-2 – Timely Appeal

STATEMENT OF THE CASE:

The claimant filed an appeal from an unemployment insurance decision dated August 7, 2008, reference 01, that denied unemployment insurance benefits for the week ending July 5, 2008 upon a finding that the claimant had received vacation pay for the week in question. Due notice was issued for a telephone hearing to be held October 22, 2008. Neither party responded to the hearing notice.

ISSUE:

Did the claimant file a timely appeal?

FINDINGS OF FACT:

Having examined all matters of 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 August 17, 2008 or received by the Agency by that date. The appeal was filed by mail. The envelope bears the date September 23, 2008. The appeal letter itself does not indicate that the claimant had recently received the adverse decision.

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 a party ten days from the date of a fact-finding decision to file an appeal. The statute goes on to say that if no appeal is filed within that time benefits shall be paid or denied in accordance with a decision. The Supreme Court of Iowa has ruled that the time limit in question 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, then, the administrative law judge has no authority to review the merits of the case.

From the evidence in the record the administrative law judge concludes that the appeal is untimely. The decision denying benefits for the week ending July 5, 2008 has become final.

DECISION:

The unemployment insurance decision dated August 7, 2008, reference 01, has become final and remains in effect. Benefits are withheld for the week ending July 5, 2008.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs