

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

CRYSTAL D RINEHART
APT 2
1004 E 12TH ST
DES MOINES IA 50316

ACCESS DIRECT TELEMARKETING INC
C/o JOHNSON AND ASSOCIATES
PO BOX 6007
OMAHA NE 68106-0007

Appeal Number: 06A-UI-00101-AT
OC: 11/06/05 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, 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

STATEMENT OF THE CASE:

Crystal D. Rinehart filed an appeal from an unemployment insurance decision dated December 15, 2005, reference 02, which disqualified her for benefits. Due notice was issued for a telephone hearing to be held January 23, 2006. Ms. Rinehart provided a telephone at which she could be contacted. The administrative law judge called the number twice at the time of the hearing. Each time, the phone was answered by a recording that the claimant was not available. Under these circumstances, it was unnecessary to take testimony from the employer.

FINDINGS OF FACT:

Having examined all matters of record, the administrative law judge finds: The decisions from which the claimant has appealed states that it would become final unless an appeal was postmarked by December 25, 2005, or received by the Agency by that date. The decision noted that if the final day for appeal fell on a Saturday, Sunday, or legal holiday, the time for appeal would be extended to the next working day. The claimant filed her appeal on January 3, 2006. Her appeal letter offers no explanation for 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 a party ten days from the date of a fact-finding decision to file an appeal. Elsewhere, state law automatically extends the due date of any documents to be filed by mail if the final day for filing falls on a Saturday, Sunday, or legal holiday. December 25, 2005, was a Sunday. Government offices were closed on the following Monday, December 26. An appeal would have been timely if filed on December 27, 2005.

The Supreme Court of Iowa has ruled that the time limits in the statute are jurisdictional. This means that in the absence of a timely appeal, the administrative law judge has no jurisdiction to rule on the merits of a case. Since the record establishes that Ms. Rinehart's appeal was filed after December 27, 2005, the administrative law judge has no legal authority to consider the merits of her appeal.

DECISION:

The unemployment insurance decision dated December 15, 2005, reference 02, has become final. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

kjw/kjw