

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TIMOTHY J GEERTS
Claimant

APPEAL NO. 09A-UI-07071-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**Original Claim: 07/06/08
Claimant: Appellant (1)**

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

STATEMENT OF THE CASE:

Timothy J. Geerts filed an appeal from an unemployment insurance decision dated April 24, 2009, reference 04, that ruled he had been overpaid by \$819.00 for the three weeks ending January 31, 2009. After due notice was issued, a telephone hearing was held May 27, 2009, with Mr. Geerts participating. This matter is considered on a consolidated record with Appeal No. 09A-UI-7069-AT.

ISSUE:

Has the claimant filed a timely appeal?

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: The decision from which Timothy J. Geerts has appealed states that it would become final unless an appeal was postmarked by May 4, 2009, or received by the Agency by that date. Mr. Geerts received the decision on May 2, 2009, a Saturday. He did not file his appeal until the following Thursday, May 7, 2009.

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 parties ten days from the date of a fact-finding decision in order 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 Mr. Geerts received the adverse decision on the Saturday before the Monday due date of the appeal. The administrative law judge concludes that the claimant

could have but did not file an appeal within the time limit set by law. Under these circumstances, the administrative law judge has no authority to rule on the merits of the case.

DECISION:

The unemployment insurance decision dated April 24, 2009, reference 04, has become final and remains in effect. The claimant has been overpaid unemployment insurance benefits in the gross amount of \$819.00 for the three weeks ending January 31, 2009.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

kjw/kjw