

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BERLE L WILLIAMS
Claimant

APPEAL NO. 12A-UI-04934-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 01/24/10
Claimant: Appellant (1)

Section 96.4-3 – Eligibility for Benefits
Section 96.6-2 – Timely Appeal

STATEMENT OF THE CASE:

Berle L. Williams filed an appeal from an unemployment insurance decision dated January 5, 2011, reference 05, that denied unemployment insurance benefits to him effective December 1, 2010, upon a finding that he was unable to work. After due notice was issued, a telephone hearing was held May 29, 2012, with Mr. Williams participating. Exhibit D-1 was admitted into evidence. This matter is considered on a consolidated record with 12A-UI-04935-AT. The administrative law judge takes official notice of Agency benefit payment records.

ISSUE:

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

FINDINGS OF FACT:

Berle L. Williams filed an additional claim for unemployment insurance benefits during the week of September 18, 2010. He filed weekly claims through the week ending January 1, 2011. On January 5, 2011, the Agency issued a fact-finding decision denying benefits to him effective December 1, 2010, upon a finding that he was unable to work. Mr. Williams has not worked since December of 2010 and is drawing social security disability benefits. Although he does not recall receiving the January 5, 2011, decision that denied benefits to him, his appeal letter refers to it.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the administrative law judge has jurisdiction to rule on the merits of the case. He does not.

Iowa Code section 96.6-2 gives a person ten days from the date of a fact-finding decision to file an appeal. The Iowa Supreme Court 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). In the absence of a timely appeal, the administrative law judge cannot change a fact-finding decision, even if he disagrees with it.

Although Mr. Williams professed no specific recollection of receiving the 2011 decision, he referred to it in his appeal letter filed in April of 2012. He filed no further weekly claims for unemployment insurance benefits after the 2011 decision had been issued. He acknowledged in testimony that he is receiving social security disability benefits. From all this, the administrative law judge concludes that Mr. Williams received the January 5, 2011 decision and concurred with it, at least until receiving the decision requiring him to repay the benefits he had received for the two weeks ending December 11, 2010. The administrative law judge concludes he does not have jurisdiction to rule on the merits of this case.

DECISION:

The unemployment insurance decision dated January 5, 2011, reference 05, has become final and remains in effect. Benefits are withheld effective December 1, 2010.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

kjw/kjw