

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JERALD L MCCLARAN**  
Claimant

**APPEAL NO. 10A-EUCU-01124-AT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 03/14/10**  
**Claimant: Appellant (1-R)**

Section 96.4-4 – Second Benefit Year Earnings Requirement  
Section 96.6-2 – Timely Appeal

**STATEMENT OF THE CASE:**

Jerald L. McClaran filed an appeal from an unemployment insurance decision dated September 15, 2010, reference 04, that declared null and void a fact-finding decision dated April 6, 2010, reference 03, that had allowed state unemployment insurance benefits to him effective March 20, 2010. After due notice was issued, a telephone hearing was held November 27, 2010, with Mr. McClaran participating. This matter is considered on a consolidated record with appeals 10A-EUCU-00976-AT, 10A-UI-14605-AT, and 10A-EUCU-00977-AT. The administrative law judge takes official notice of Agency decision records, benefit payment records, and overpayment records.

**ISSUE:**

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

**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 the claimant has appealed states that it would become final unless an appeal was postmarked by September 25, 2010, or received by the Agency by that date. September 25, 2010, was a Saturday. The following workday was September 27, 2010. The appeal was filed September 29, 2010.

**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 an individual 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. 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 has no jurisdiction to rule on the merits of a case.

The evidence in this record establishes that the claimant did not file a timely appeal. Therefore, the administrative law judge has no jurisdiction to rule on the merits of the case.

The administrative law judge notes that the Iowa Administrative Code allows the Unemployment Insurance Services Division to re-open a case if new evidence is discovered. See 871 IAC 24.9(2)d. The administrative law judge remands this matter to the Unemployment Insurance Services Division to review the documentation contained in Exhibit A to consider whether it constitutes new evidence justifying a review of the prior decision.

**DECISION:**

The unemployment insurance decision dated September 15, 2010, reference 04, is affirmed. The administrative law judge lacks jurisdiction to rule on the merits of the case. This matter is remanded to the Unemployment Insurance Services Division to determine if the documents contained in Exhibit A constitute new information justifying its review of the prior decision.

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Dan Anderson  
Administrative Law Judge

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Decision Dated and Mailed

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