

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

NAKITA M CARTER
Claimant

APPEAL NO. 10A-UI-07550-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MANPOWER INC OF D M
Employer

OC: 01/17/10
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit
Section 96.6-2 – Timely Appeal

STATEMENT OF THE CASE:

Nakita M. Carter filed an appeal from an unemployment insurance decision dated March 31, 2010, reference 01, that disqualified her for benefits. After due notice was issued, a telephone hearing was held June 4, 2010 with Ms. Carter participating. Account Manager Sara Dahm participated for the employer, Manpower, Inc. of Des Moines. Exhibits A, B, and D-1 were admitted into evidence. This matter is considered on a consolidated record with appeal numbers 10A-UI-07551-AT, 10A-UI-07552-AT, 10A-UI-07554-AT, and 10A-UI-07555-AT.

ISSUE:

Has the claimant filed a timely appeal?

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: The decisions on appeal in hearings 10A-UI-07550-AT, 10A-UI-07551-AT and 10A-07552-AT were all issued on March 31, 2010. Each decision recited that it would become final unless an appeal was postmarked by April 10, 2010 or received by the agency by that date. Ms. Carter filed her appeal by fax on April 12, 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. In the case Franklin v. Iowa Department of Job Service, 277 N.W.2d 877, 881 (Iowa 1979), the Supreme Court of Iowa ruled that in the absence of a timely appeal, an administrative law judge has no legal authority to change a fact-finding decision, even if he or she should disagree with it. The evidence in this record persuades the administrative law judge that the appeal in this case was filed two days too late. This means that the administrative law judge has no jurisdiction to review the merits.

DECISION:

The unemployment insurance decision dated March 31, 2010, reference 01, has become final and remains in effect. 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.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs