

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**CLARA M HINES**  
Claimant

**APPEAL NO. 08A-UI-09885-AT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**GENESIS HEALTH SYSTEM**  
Employer

**OC: 08/03/08 R: 04  
Claimant: Appellant (1)**

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

**STATEMENT OF THE CASE:**

Clara M. Hines filed an appeal from an unemployment insurance decision dated October 8, 2008, reference 01, that denied benefits to her. Due notice was issued for a telephone hearing to be held at 1:00 p.m. on November 10, 2008. Ms. Hines provided a telephone number at which she could be contacted. However, the phone was answered by a recording when called at the time of the hearing. The administrative law judge left the toll-free number for the Appeals Section with instructions for the claimant to call immediately if she wished to participate. As of 1:15 p.m., there had been no contact from the claimant. The claimant contacted the Appeals Section at 2:55 p.m., having thought the hearing was scheduled for November 11.

**ISSUE:**

Has the claimant filed a timely appeal?

**FINDINGS OF FACT:**

Having examined all matters of record, the administrative law judge finds: The decision from which Clara M. Hines has appealed states that it would become final unless an appeal was postmarked by October 18, 2008, or received by the Agency by that date. The claimant filed an appeal by fax on October 25, 2008. The appeal letter, dated October 20, 2008, recited that the claimant had received the fact-finding decision.

The substantive issue involved in this case is availability for work, an issue that is determined on a week-by-week basis.

**REASONING AND CONCLUSIONS OF LAW:**

The question is whether the administrative law judge has jurisdiction to consider the appeal filed on October 25, 2008. He does not.

Iowa Code section 96.6-2 gives parties ten days from the date of the fact-finding decision to file an appeal. The statute goes on to say that if no appeal is filed within that time, benefits shall be

paid or denied in accordance with the initial decision. The Supreme Court of Iowa has ruled that this time limit is jurisdictional. See Franklin v. Iowa Department of Job Service, 277 N.W.2d 877, 881 (Iowa 1979).

The evidence in this record persuades the administrative law judge that the claimant could have but did not file a timely appeal. Thus, the administrative law judge has no authority to consider whether benefits were appropriately denied effective August 3, 2008.

The claimant may contact her local Workforce Development center if she wishes to question whether at this time she should be allowed unemployment insurance benefits.

**DECISION:**

The unemployment insurance decision dated October 8, 2008, reference 01, has become final and remains in effect. The claimant is ineligible for unemployment insurance benefits.

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Dan Anderson  
Administrative Law Judge

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Decision Dated and Mailed

kjw/kjw