

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JEFFREY R FLOYD
Claimant

APPEAL NO. 07A-UI-04255-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

FOUR OAKS INC OF IOWA
Employer

**OC: 03-18-07 R: 02
Claimant: Appellant (1)**

Section 96.6-2 – Timely Appeal

STATEMENT OF THE CASE:

Jeffrey R. Floyd filed an appeal from an unemployment insurance decision dated April 9, 2007, reference 01, that disqualified him for benefits. Due notice was issued for a telephone hearing to be held May 8, 2007. Mr. Floyd provided a telephone number at which he could be contacted. When the administrative law judge called that number, however, it was answered by a recording indicating that the line had been disconnected. Under the circumstances, it was not necessary to take testimony from the employer.

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 the claimant has appealed states that it would become final unless an appeal was postmarked by April 19, 2007 or received by the Agency by that date. Mr. Floyd filed his appeal in person at an Agency office on April 25, 2007. The appeal letter does not state that Mr. Floyd received the adverse decision after April 19, 2007.

REASONING AND CONCLUSIONS OF LAW:

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

Iowa Code section 96.6-2 gives parties ten days from the date of a fact-finding decision to file a timely 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 authority to change the fact-finding decision.

The evidence in this record establishes that Mr. Floyd filed his appeal several days after the expiration of the period for doing so. In the absence of any evidence indicating that the delay

was the fault of Iowa Workforce Development or the U.S. Postal Service, the administrative law judge concludes that he has no jurisdiction to rule on the merits of this case.

DECISION:

The unemployment insurance decision dated April 9, 2007, reference 01, has become final. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs