

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

JULITA B CIGRAND
2581 LOCKSLEY RD
MELBOURNE FL 32935

IOWA WORKFORCE
DEVELOPMENT DEPARTMENT

Appeal Number: 04A-UI-09548-AT
OC: 07-25-04 R: 03
Claimant: Appellant (1)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.6-2 – Timely Appeal

STATEMENT OF THE CASE:

Julita B. Cigrand filed an appeal from an unemployment insurance decision dated August 18, 2004, reference 04, which denied benefits for the two weeks ending August 7, 2004. After due notice was issued, a telephone hearing was held September 28, 2004 with Ms. Cigrand participating. Exhibit D-1, the claimant's appeal letter and envelope, were admitted into evidence.

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 Julita B. Cigrand has

appealed states that it would become final unless an appeal was postmarked by August 28, 2004 unless that date fell on a Saturday, Sunday or legal holiday. Since August 28, 2004 was a Saturday, the due date for filing the appeal was Monday, August 30, 2004. Ms. Cigrand received the decision on August 20, 2004. She filled out an appeal form on August 30, 2004, but the envelope was not postmarked until August 31, 2004.

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 legal authority to change an earlier decision, even if he disagrees with it.

The evidence in this record establishes that Ms. Cigrand did not file a timely appeal although she had the opportunity to do so. Under these circumstances, the administrative law judge has no jurisdiction to rule on the merits of the case.

DECISION:

The unemployment insurance decision dated August 18, 2004, reference 04, has become final and remains in effect. The claimant is ineligible for unemployment insurance benefits for the two weeks ending August 7, 2004.

tjc/b