

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JANELLE M WEBER
Claimant

APPEAL NO. 12A-UI-05107-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MCGRAW-HILL INC
Employer

OC: 02/12/12
Claimant: Appellant (1)

Section 96.5-7 – Vacation Pay
Section 96.6-2 – Timely Appeal

STATEMENT OF THE CASE:

Janelle M. Weber filed an appeal from an unemployment insurance decision dated March 20, 2012, reference 01, that denied unemployment insurance benefits for the three weeks ending March 3, 2012 upon a finding that she was entitled to receive vacation pay from McGraw-Hill, Inc. attributable to those weeks. After due notice was issued, a telephone hearing was held May 31, 2012 with Ms. Weber participating. The employer did not. Exhibit D-1 was admitted into evidence. This matter is considered on a consolidated record with 12A-UI-05108-AT and 12A-UI-05109-AT.

ISSUE:

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

FINDINGS OF FACT:

The decision from which Janelle M. Weber has appealed states that it would become final unless an appeal was postmarked by March 30, 2012 or received by the agency by that date. Ms. Weber filed her appeal at the Dubuque Workforce Center on May 3, 2012. She had submitted a letter to the Claims Section prior to the fact-finding decision being issued. Ms. Weber received the fact-finding decision but did not file an appeal until after learning that coworkers had successfully pursued similar appeals.

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 parties ten days from the date of a fact-finding decision to file an appeal. The Iowa Supreme Court 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 a fact-finding decision.

The evidence establishes that Ms. Weber first filed an appeal from the fact-finding decision on May 3, 2012. Her letter to the agency prior to the fact-finding decision cannot be considered an appeal from that decision. Since no appeal was filed within the ten days set by statute, the administrative law judge has no jurisdiction to rule on the merits of the case.

DECISION:

The unemployment insurance decision dated March 20, 2012, reference 01, has become final and remains in effect.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

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