

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**HOLLY L HAYES**  
Claimant

**APPEAL NO. 06A-UI-11781-AT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**DOLGENCORP INC**  
**DOLLAR GENERAL**  
Employer

**OC: 10/22/06 R: 02**  
**Claimant: Appellant (1)**

Section 96.6-2 – Timely Appeal

**STATEMENT OF THE CASE:**

Holly L. Hayes filed an appeal from an unemployment insurance decision dated November 21, 2006, reference 01, which denied unemployment insurance benefits to her. After due notice was issued, a telephone hearing was held December 20, 2006 with Ms. Hayes participating. The employer, Dollar General, did not respond to the hearing notice. Exhibit D-1, the claimant's appeal letter, was admitted into evidence.

**ISSUE:**

Did the claimant file a timely appeal?

**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 Holly L. Hayes has appealed states that it would become final unless an appeal was postmarked by December 1, 2006 or received by the Agency by that date. The claimant's appeal was filed in person on December 8, 2006.

**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 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 a fact-finding decision even if he should disagree with it.

The evidence in this record establishes that the claimant filed her appeal a week late. No evidence in the record establishes a legally sufficient reason for the delay. The administrative law judge concludes that he lacks jurisdiction to rule on the merits of this case.

**DECISION:**

The unemployment insurance decision dated November 21, 2006, 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.

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Dan Anderson  
Administrative Law Judge

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Decision Dated and Mailed

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