

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SHERRY R BALES

Claimant

APPEAL NO. 09A-UI-05261-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CASEY'S MARKETING COMPANY

Employer

OC: 02/15/09

Claimant: Appellant (1)

Section 96.5-2-a – Discharge
Section 96.6-2 – Timely Appeal

STATEMENT OF THE CASE:

Sherry R. Bales filed an appeal from an unemployment insurance decision dated March 13, 2009, reference 01, that disqualified her for benefits. After due notice was issued, a telephone hearing was held May 1, 2009 with Ms. Bales participating. Deborah Myers participated for the employer, Casey's Marketing Company. Exhibit D-1 was admitted into evidence.

ISSUE:

Has the claimant filed a timely appeal?

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: The decision from which Sherry R. Bales has appealed states that it would become final unless an appeal was postmarked by March 23, 2009 or received by the agency by that date. Ms. Bales received the decision in time to file an appeal by March 23, 2009.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the claimant has filed a timely appeal. She has 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). The instructions in the fact-finding decisions are explicit. The process for filing an appeal is also well known by agency local office staff. A workforce adviser would not have told Ms. Bales that she could not file an appeal. The administrative law judge concludes that he has no jurisdiction to rule on the merits of the case.

DECISION:

The unemployment insurance decision dated March 13, 2009, 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.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs