

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SAMUEL J COLE
Claimant

APPEAL NO. 12A-EUCU-00039-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 07/19/09
Claimant: Appellant (1)

Public Law 110-252 – Emergency Unemployment Compensation
Section 96.6-2 – Timely Appeal

STATEMENT OF THE CASE:

Samuel J. Cole filed an appeal from an unemployment insurance decision dated September 29, 2011, reference 03, that ruled he was ineligible for emergency unemployment compensation benefits based on his July, 19, 2009 claim effective January 2, 2011 because he was monetarily eligible for a new state unemployment insurance claim effective that date. After due notice was issued, a telephone hearing was held February 23, 2012 with Mr. Cole participating. Exhibit D-1 was admitted into evidence.

ISSUE:

Has the claimant filed a timely appeal?

FINDINGS OF FACT:

Samuel J. Cole received the fact-finding decision dated September 29, 2011 that is on appeal in the present case. He did not file an appeal until December 27, 2011 because he was working.

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). Additional time for an appeal may only be granted if the delay is the fault of the United States Postal Service or Iowa Workforce Development. See 871 IAC 24.35.

Mr. Cole testified that he received the decision and that he delayed filing for several months because he was then employed. The delay in filing the appeal was not the fault of the postal service or the agency. The administrative law judge concludes he does not have jurisdiction to rule on the merits of the case.

DECISION:

The unemployment insurance decision dated September 29, 2011, reference 03, has become final. The claimant is ineligible for emergency unemployment compensation benefits based on his July 19, 2009 unemployment insurance claim as of January 2, 2011.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

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