

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DEREK D SCHROEDER
Claimant

APPEAL NO. 08A-UI-02195-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

LOWE'S HOME CENTERS INC
Employer

**OC: 11/04/07 R: 04
Claimant: Appellant (1)**

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

STATEMENT OF THE CASE:

Derek D. Schroeder filed an appeal from an unemployment insurance decision dated December 7, 2007, reference 04, that disqualified him for benefits. Due notice was issued for a telephone hearing to be held March 19, 2008. Mr. Schroeder did not respond to the hearing notice. Under these circumstances, it was unnecessary to take testimony from the employer.

ISSUE:

Has the claimant filed a timely appeal?

FINDINGS OF FACT:

Having examined all matters of record, the administrative law judge finds: The decision from which Mr. Schroeder has appealed states that it would become final unless an appeal was postmarked by December 17, 2007 or received by the Agency by that date. Mr. Schroeder filed an appeal via the US Postal Service. The appeal letter is postmarked March 3, 2008, the same date that the letter was prepared. The letter does not assert that Mr. Schroeder had not received the earlier decision until then.

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). On its face, the appeal letter is untimely. Furthermore, it contains no indication of mitigating circumstances. The administrative law judge concludes that he lacks jurisdiction to rule on the merits of the case.

DECISION:

The unemployment insurance decision dated December 7, 2007, reference 04, has become final. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

pjs/kjw