

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KYLE J WHITE
Claimant

APPEAL NO. 10A-EUCU-00651-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 01/11/09
Claimant: Appellant (1)

Section 96.3-5-b – Training Extension Benefits
Section 96.6-2 – Timely Appeal

STATEMENT OF THE CASE:

Kyle J. White filed an appeal from an unemployment insurance decision dated July 6, 2010, reference 03, that denied his request for training extension benefits. After due notice was issued, a telephone hearing was held August 30, 2010, with Mr. White participating. Exhibit D-1 was admitted into evidence.

ISSUE:

Has the claimant filed 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 Kyle J. White has appealed states that it would become final unless an appeal was postmarked by July 6, 2010, or received by the Agency by that date. Mr. White filed his appeal on July 26, 2010. The delay in filing was not the fault of the U.S. Postal Service or Iowa Workforce Development.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the administrative law judge has jurisdiction to rule on the merits of the 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 the fact-finding decision.

Mr. White stated candidly that he misread the decision when he received it. The Iowa administrative code allows additional time for filing an appeal only if the delay is the fault of the

U.S. Postal Service or Iowa Workforce Development. See 871 IAC 24.35. Since the delay was for reasons other than these, no additional time may be granted.

DECISION:

The unemployment insurance decision dated July 6, 2010, reference 03, has become final and remains in effect. The claimant's request for training extension benefits is denied.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

kjw/kjw