

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JOHNATHAN E HAGEN
Claimant

APPEAL NO. 11A-UI-11834-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MERIDIAN MANUFACTURING
Employer

**OC: 07/31/11
Claimant: Appellant (1)**

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

STATEMENT OF THE CASE:

Johnathan E. Hagen filed an appeal from an unemployment insurance decision dated August 23, 2011, reference 01, that disqualified him for benefits. After due notice was issued, a telephone hearing was held October 4, 2011. Mr. Hagen participated on his own behalf. Marla Smith and Terry Pearson participated for the employer, Meridian Manufacturing. Exhibit D-1 was admitted into evidence.

ISSUE:

Did the claimant file a timely appeal?

FINDINGS OF FACT:

Johnathan E. Hagen filed his appeal on September 8, 2011. The decision that disqualified him for benefits stated that it would become final unless an appeal was filed by September 2, 2011. Mr. Hagen was out of town for a week and a half at the time that the fact-finding decision was issued.

REASONING AND CONCLUSIONS OF LAW:

The question is whether Mr. Hagen filed a timely appeal. He did not.

Iowa Code § 96.6-2 gives parties ten days from the date of a fact-finding decision to file an appeal. The Iowa Supreme Court has ruled that the time limit 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 cannot change a fact-finding decision, even if he disagrees with it. An individual may have additional time to file an appeal if the delay is caused by the United States Postal Service or Iowa Workforce Development. See 871 IAC 24.35.

The evidence shows that Mr. Hagen filed his appeal six days after the appeal period had ended. The delay was not the fault of the postal service or the agency. The administrative law judge concludes that he has no jurisdiction to rule on the merits of the case.

DECISION:

The unemployment insurance decision dated August 23, 2011, reference 01, 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/pjs