

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JACOB L MEYER**  
Claimant

**APPEAL NO. 09A-UI-02466-AT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**AREA SUBSTANCE ABUSE COUNCIL INC**  
Employer

**OC: 11/02/08 R: 04  
Claimant: Appellant (1)**

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

**STATEMENT OF THE CASE:**

Jacob L. Meyer filed an appeal from an unemployment insurance decision dated December 24, 2008, reference 01, that disqualified him for benefits. After due notice was issued, a telephone hearing was held March 4, 2009, with Mr. Meyer participating. John Garringer, Melissa Walker, and Leslie Mussmann participated for the employer, Area Substance Abuse Council, Inc. 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 Jacob L. Meyer has appealed states that it would become final unless an appeal was postmarked by January 3, 2009, or received by the agency by that date. Mr. Meyer was out of the county on his honeymoon when the decision was issued. He returned on January 3, 2009, and found the adverse decision. He waited several weeks before filing an appeal in the hopes that he would soon obtain other employment. He filed his appeal in his local Workforce Development center on February 17, 2009.

**REASONING AND CONCLUSIONS OF LAW:**

The question is whether the appeal can be accepted as timely. It cannot.

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 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 jurisdiction to rule on the merits of the case. In some instances, additional time may be granted for an appeal if the delay is the fault of the U.S. Postal Service or Iowa Workforce Development. See 871 IAC 24.35. In such

instances, the question becomes whether the individual filed the appeal within a reasonable amount of time after learning of its existence.

The administrative law judge concludes that this rule does not work to the claimant's advantage. First, the delay was not the fault of the postal service or the agency. Second, Mr. Meyer waited approximately six weeks from learning of the decision before filing the appeal. Such a delay does not appear to be reasonable.

**DECISION:**

The unemployment insurance decision dated December 24, 2008, 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.

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Dan Anderson  
Administrative Law Judge

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Decision Dated and Mailed

kjw/kjw