

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JULIANNE LINDSKOG

Claimant

APPEAL NO. 09A-UI-05973-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

GOOD NEWS INC OF IOWA

Employer

OC: 12/14/08

Claimant: Appellant (1-R)

Section 96.4-3 – Eligibility for Benefits

Section 96.6-2 – Timely Appeal

STATEMENT OF THE CASE:

Julianne Lindskog filed an appeal from an unemployment insurance decision dated January 28, 2009, reference 01, that denied benefits to her. After due notice was issued, a telephone hearing was held May 28, 2009 with Ms. Lindskog participating. Robert Green participated for the employer, Good News Inc. of Iowa. Exhibit D-1, the claimant's appeal letter and envelope, were 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 Julianne Lindskog has appealed states that it would become final unless an appeal was postmarked by February 7, 2009 or received by the Agency by that date. Ms. Lindskog received the decision but did not file an appeal until April 14, 2009 after receiving a subsequent decision requiring that she repay unemployment insurance benefits already received.

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 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). In the absence of a timely appeal, the administrative law judge has no authority to address the merits of a case.

The administrative law judge concludes from the evidence that Ms. Linskog could have filed an appeal within the time limit set by law but did not do so. Therefore, he concludes he has no jurisdiction to rule on the merits of the case.

During the hearing there was testimony as to severance pay being given to Ms. Linskog by this employer following a separation from employment in March. The question of whether the severance pay has been attributed to the proper weeks is remanded to the Unemployment Insurance Services Division.

DECISION:

The unemployment insurance decision dated January 28, 2009, reference 01, has become final and remains in effect. The claimant was not eligible to receive unemployment insurance benefits beginning January 28, 2009 until a subsequent fact-finding decision allowed them beginning March 29, 2009. The question of whether severance pay has been deducted for the proper period is remanded to the Unemployment Insurance Services Division.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs