

**IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI**

**AMANDA L CARPENTER
615 CAULDER AVE
DES MOINES IA 50315**

**LUTHERAN SERVICES IN IOWA INC
ATTN HUMAN RESOURCES
3116 UNIVERSITY AVE
DES MOINES IA 50311**

**Appeal Number: 04A-UI-11513-AT
OC: 06-13-04 R: 02
Claimant: Appellant (1)**

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319.**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.6-2 – Timely Appeal

STATEMENT OF THE CASE:

Amanda L. Carpenter filed an appeal from an unemployment insurance decision dated July 9, 2004, reference 01, which disqualified her for benefits. Due notice was issued for a telephone hearing to be held November 17, 2004. Although Ms. Carpenter provided a telephone number at which she could be contacted, there was no answer when called at the time of the hearing. Under the circumstances, it was unnecessary to take testimony from the employer's witnesses. This decision is based on information in the claimant's appeal letter and the administrative file.

FINDINGS OF FACT:

Having examined all matters of record, the administrative law judge finds: The decision from which Amanda L. Carpenter has appealed states that it would become final unless an appeal was postmarked by July 19, 2004 or received by the Agency by that date. Ms. Carpenter filed her appeal on October 22, 2004. The appeal letter does not assert that Ms. Carpenter had not received the earlier decision.

The appeal letter indicated that Ms. Carpenter has earned more than \$3,000.00 since beginning employment with Git 'N Go. The administrative law judge has no information confirming that assertion. Ms. Carpenter's weekly benefit amount is \$300.00

REASONING AND CONCLUSIONS OF LAW:

The first issue is whether the administrative law judge has jurisdiction to rule on the merits of the disqualification decision issued in July 2004. 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 legal authority to change a fact-finding decision, even if he should disagree with it. On its face, the claimant's appeal letter is untimely. Nothing in the appeal letter indicates late delivery of the fact-finding decision. Under these circumstances, the administrative law judge concludes that he has no authority to review the merits of the disqualification decision.

The claimant seems to raise the issue of whether she has requalified by earning ten times her weekly benefit amount in subsequent employment. If this is the claimant's intent, she should report to her local Workforce Development center with pay stubs documenting her earnings since June 14, 2004, the date that her employment with Lutheran Services in Iowa, Inc. ended.

DECISION:

The unemployment insurance decision dated July 9, 2004, reference 01, has become final and remains in effect. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

b/b