

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

SHERRY L VAN ZEE
112 K AVE E
OSKALOOSA IA 52577

PLEASANT PARK ESTATES INC
C/o CLARICE WRIGHT
2089 – 270TH ST
OSKALOOSA IA 52577

CRYSTAL PROPERTIES
2900 WESTOWN PKWY
WEST DES MOINES IA 50266

Appeal Number: 06A-UI-04709-AT
OC: 12/04/05 R: 03
Claimant: Respondent (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:

Pleasant Park Estates, Inc. filed an appeal from an unemployment insurance decision dated December 27, 2005, reference 01, which allowed benefits to Sherry L. Van Zee. Due notice was issued for a telephone hearing to be held June 1, 2006. Although Ms. Van Zee responded to the hearing notice, the employer did not. Under the circumstances, it was not necessary to take testimony from the claimant.

FINDINGS OF FACT:

Having examined all matters of record, the administrative law judge finds: The decision from which Pleasant Park Estates, Inc. has appealed states that it would become final unless an

appeal was postmarked by January 6, 2006 or received by the Agency by that date. The appeal was filed on March 21, 2006.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the administrative law judge has jurisdiction to rule on the merits of this case. He does not.

Iowa Code section 96.6-2 gives a party 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 that 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 rule on the merits of the case. The evidence here indicates that the employer's appeal was not filed within the time specified by statute. Thus, the administrative law judge concludes that he has no authority to rule on the merits of this present case.

DECISION:

The unemployment insurance decision dated December 27, 2005, reference 01, has become final. The claimant is entitled to receive unemployment insurance benefits, provided she is otherwise eligible.

cs/pjs