

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JAMES F FUQUA**  
Claimant

**APPEAL NO: 13A-UI-01931-ET**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**MARKETLINK INC**  
Employer

**OC: 12/16/12**  
**Claimant: Appellant (2)**

Section 96.5-1 – Voluntary Leaving  
Section 96.6-2 – Timeliness of Appeal

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the January 30, 2013, reference 03, decision that denied benefits. After due notice was issued, a telephone hearing was held before Administrative Law Judge Julie Elder on March 15, 2013. The claimant participated in the hearing. The employer provided a phone number prior to the hearing but was not available at that number at the time of the hearing and did not participate in the hearing or request a postponement of the hearing as required by the hearing notice. Department's Exhibit D-1 was admitted into evidence.

**ISSUES:**

The issues are whether the claimant's appeal is timely and whether he voluntarily left his employment with good cause attributable to the employer.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: A disqualification decision was mailed to the claimant's last-known address of record on January 30, 2013. The claimant received the decision. The decision contained a warning that an appeal must be postmarked or received by the Appeals Section by February 9, 2013. That date fell on a Saturday so the appeal was actually due February 11, 2013. The appeal was not filed until February 15, 2013, which is after the date noticed on the disqualification decision. The claimant went to 430 East Grand and filed an appeal around February 7 or 8, 2013. He returned to 430 East Grand February 15, 2013, and was told his appeal was not filed and he would have to refile his appeal. He did so and it was submitted by Iowa Works February 15, 2013. Consequently, the administrative law judge concludes the claimant's appeal is timely because he originally filed an appeal February 7 or 8, 2013.

The claimant was employed as a full-time customer service representative for Marketlink from May 2012 to June 26, 2012. He was hired as a full-time employee and was working 40 to 43 hours per week. The employer cut his hours to 28 hours per week and because he could not afford to live on the corresponding cut in pay and commissions, the claimant voluntarily left his employment June 26, 2012.

## **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left his employment with good cause attributable to the employer.

Iowa Code section 96.5-1 provides:

An individual shall be disqualified for benefits:

1. Voluntary quitting. If the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department.

871 IAC 24.26(1) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(1) A change in the contract of hire. An employer's willful breach of contract of hire shall not be a disqualifiable issue. This would include any change that would jeopardize the worker's safety, health or morals. The change of contract of hire must be substantial in nature and could involve changes in working hours, shifts, remuneration, location of employment, drastic modification in type of work, etc. Minor changes in a worker's routine on the job would not constitute a change of contract of hire.

In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. 871 IAC 24.25. Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. 871 IAC 24.26(3),(4). Leaving because of dissatisfaction with the work environment is not good cause. 871 IAC 24.25(1). The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code Section 96.6-2. In this case the employer cut the claimant's hours from 40 hours per week to 28 hours per week. That constitutes a substantial change in the claimant's contract of hire. Therefore, benefits are allowed.

**DECISION:**

The January 30, 2013, reference 03, decision is reversed. The claimant's appeal is timely. He voluntarily left his employment with good cause attributable to the employer. Benefits are allowed, provided the claimant is otherwise eligible.

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Julie Elder  
Administrative Law Judge

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Decision Dated and Mailed

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