

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SCOTT A MALCOM
Claimant

APPEAL NO. 13A-UI-08510-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

LABOR SOLUTIONS INC
Employer

OC: 05/12/13
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit
Section 96.6-2 – Late Appeal
871 IAC 26.8(5) – Decision on the Record

STATEMENT OF THE CASE:

An appeal was filed from an unemployment insurance decision dated June 5, 2013, reference 01, that denied unemployment insurance benefits. A telephone hearing was scheduled for August 27, 2013. Although duly notified, the claimant failed to participate in the hearing. This decision is based upon information in the administrative file. Based upon the appellant's failure to participate in the hearing, the record, the administrative file and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

At issue in this matter is whether the claimant quit employment because he was arrested and confined in jail.

FINDINGS OF FACT:

The parties were properly notified of the scheduled hearing on this appeal. The claimant's appeal was filed after the due date noticed on the appeal decision and was not timely. The claimant failed to provide a telephone number at which he could be reached for the hearing and did not participate in the unemployment hearing or request a postponement of the hearing as required by the hearing notice.

The administrative law judge has conducted a careful review of the administrative file and determines that the claimant left employment when he was confined to jail and did not meet the requirements for work release.

REASONING AND CONCLUSIONS OF LAW:

871 IAC 26.8(3), (4) and (5) provide:

Withdrawals and postponements.

(3) If, due to emergency or other good cause, a party, having received due notice, is unable to attend a hearing or request postponement within the prescribed time, the presiding officer may, if no decision has been issued, reopen the record and, with notice to all parties, schedule another hearing. If a decision has been issued, the decision may be vacated upon the presiding officer's own motion or at the request of a party within 15 days after the mailing date of the decision and in the absence of an appeal to the employment appeal board of the department of inspections and appeals. If a decision is vacated, notice shall be given to all parties of a new hearing to be held and decided by another presiding officer. Once a decision has become final as provided by statute, the presiding officer has no jurisdiction to reopen the record or vacate the decision.

(4) A request to reopen a record or vacate a decision may be heard ex parte by the presiding officer. The granting or denial of such a request may be used as a grounds for appeal to the employment appeal board of the department of inspections and appeals upon the issuance of the presiding officer's final decision in the case.

(5) If good cause for postponement or reopening has not been shown, the presiding officer shall make a decision based upon whatever evidence is properly in the record.

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.

The administrative law judge has carefully reviewed the evidence in the administrative file and concludes that the unemployment insurance decision previously entered in this case is correct and should be affirmed.

DECISION:

The unemployment insurance decision dated June 5, 2013, reference 01, is affirmed. The representative's decision remains in effect. Benefits are denied until the claimant has worked in and been paid wages for insured work equal to ten times his weekly benefit amount and is otherwise eligible.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

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