

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**MARISHA FRANKLIN  
1823 10TH ST  
DES MOINES IA 50314-2416**

**CU COOPERATIVE SYSTEMS INC  
9692 HAVEN AVE  
RANCHO CUCAMONGA CA 91730**

**APPEAL 21A-UI-19419-DH-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**REQUEST TO REOPEN AND APPEAL RIGHTS:**

**This Decision Shall Become Final**, unless within fifteen (15) days from the mailing date below the administrative law judge's signature on the last page of the decision, you or any interested party:

(1) Make a request to reopen the hearing to the Appeals Bureau directly to:

*Unemployment Insurance Appeals Bureau  
1000 East Grand Avenue  
Des Moines, Iowa 50319-0209  
Or  
Fax: (515) 478-3528*

(2) **OR YOU MAY** Appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to:

*Employment Appeal Board  
4<sup>th</sup> Floor – Lucas Building  
Des Moines, Iowa 50319  
Or  
Fax: (515)281-7191*

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.

**AN APPEAL TO THE BOARD SHALL STATE CLEARLY:**

The name, address and social security number of the claimant.

A reference to the decision from which the appeal is taken. That an appeal from such decision is being made and such appeal is signed.

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.

**SERVICE INFORMATION:**

A true and correct copy of this decision was mailed to each of the parties listed.

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**ONLINE RESOURCES:**

UI law and administrative rules: <https://www.iowaworkforcedevelopment.gov/unemployment-insurance-law-and-administrative-rules>

UI Benefits Handbook: <https://www.iowaworkforcedevelopment.gov/unemployment-insurance-benefits-handbook-guide-unemployment-insurance-benefits>

Handbook for Employers and forms: <https://www.iowaworkforcedevelopment.gov/employerforms>

Employer account access and information: <https://www.myiowaui.org/UITIPTaxWeb/>

National Career Readiness Certificate and Skilled Iowa Initiative: <http://skillediowa.org/>

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UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**MARISHA FRANKLIN**  
Claimant

**APPEAL 21A-UI-19419-DH-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CU COOPERATIVE SYSTEMS INC**  
Employer

**OC: 05/16/21  
Claimant: Appellant (1)**

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Iowa Code § 96.5(1) - Voluntary Quit  
Iowa Code § 96.5(2)a - Discharge for misconduct  
Iowa Admin. Code r. 871-24.25(20) - Compelling Personal Reasons Greater than 10 Days  
Iowa Code § 96.6(2) - Timeliness of Appeal

**STATEMENT OF THE CASE:**

Claimant, filed an appeal on September 1, 2021, from the August 10, 2021 (reference 01) unemployment insurance decision that denied benefits based upon a determination that claimant voluntarily quit work on May 26, 2021, for compelling reasons, but it exceeded ten working days, without good cause attributable to the employer. The parties were properly notified of the hearing. A telephonic hearing was held on October 25, 2021. The claimant, Marisha Franklin, participated. The employer, CU Cooperative Systems, Inc., failed to respond to the hearing notice and provide a telephone number at which they could be reached for the scheduled hearing. Judicial notice was taken of the administrative file and the contents therein. No exhibits were received.

**ISSUES:**

Is claimant's appeal timely?

Was the separation a layoff, discharge for misconduct or a voluntary quit without good cause attributable to the employer?

**FINDINGS OF FACT:**

Having heard the testimony and reviewed all of the evidence in the record, the administrative law judge finds: Claimant never received the August 9, 2021 decision. Upon calling learning benefits were denied (approximately August 29, 2021, claimant submitted her appeal four days later on September 1, 2021. Good cause has been established in the decision did not arrive in the mail, which is not claimant's fault. Claimant submitted an appeal quickly after learning she was denied.

Claimant started with employer on August 23, 2018. March 17, 2021 was the first day she missed work and did not return to work. Claimant called in sick to work that day and wanted to start a leave of absence. Employer sent her leave of absence forms to fill out and return. Claimant did not get the forms filled out and returned, advising the employer that the doctor is busy. In a

communication May 6, 2021, claimant advised the employer that she was seeing her doctor the following week, and believed the doctor would be able to fill out the leave forms so they could be submitted. Claimant was still out from work without submitting the leave of absence forms from March 17, 2021 through and including May 12, 2021.

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

The first issue to be considered in this appeal is whether the appellant's appeal is timely. The administrative law judge determines it is.

Iowa Code § 96.6(2) provides, in pertinent part: “[u]nless the claimant or other interested party, after notification or within ten calendar days after notification was mailed to the claimant's last known address, files an appeal from the decision, the decision is final and benefits shall be paid or denied in accordance with the decision.”

Iowa Admin. Code r. 871-24.35(1) provides:

1. Except as otherwise provided by statute or by division rule, any payment, appeal, application, request, notice, objection, petition, report or other information or document submitted to the division shall be considered received by and filed with the division:

(a) If transmitted via the United States Postal Service on the date it is mailed as shown by the postmark, or in the absence of a postmark the postage meter mark of the envelope in which it is received; or if not postmarked or postage meter marked or if the mark is illegible, on the date entered on the document as the date of completion.

(b) If transmitted via the State Identification Data Exchange System (SIDES), maintained by the United States Department of Labor, on the date it was submitted to SIDES.

(c) If transmitted by any means other than [United States Postal Service or the State Identification Data Exchange System (SIDES)], on the date it is received by the division.

Iowa Admin. Code r. 871-24.35(2) provides:

2. The submission of any payment, appeal, application, request, notice, objection, petition, report or other information or document not within the specified statutory or regulatory period shall be considered timely if it is established to the satisfaction of the division that the delay in submission was due to division error or misinformation or to delay or other action of the United States postal service.

The Iowa Supreme Court has declared that there is a mandatory duty to file appeals from representatives' decisions within the time allotted by statute, and that the administrative law judge has no authority to change the decision of a representative if a timely appeal is not filed. *Franklin v. IDJS*, 277 N.W.2d 877, 881 (Iowa 1979). Compliance with appeal notice provisions is jurisdictional unless the facts of a case show that the notice was invalid. *Beardslee v. IDJS*, 276 N.W.2d 373, 377 (Iowa 1979); see also *In re Appeal of Elliott* 319 N.W.2d 244, 247 (Iowa 1982).

The appellant did not receive the decision denying benefits via the United States Postal Service and upon learning she was denied by calling workforce development, and being further advised to go online and file an electronic appeal, claimant filed electronically. The untimeliness was not the fault of claimant/appellant. Therefore, the appeal shall be accepted as timely.

The next issue is whether the claimant voluntarily quit or was discharged.

For the reasons that follow, the administrative law judge concludes claimant's separation was without good cause attributable to the employer. Benefits are withheld.

Iowa Code §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.

Iowa Admin. Code r. 871-24.25(20) provides:

Voluntary quit without good cause. 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. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer: ...

(20) The claimant left for compelling personal reasons; however, the period of absence exceeded ten working days.

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). "Good cause" for leaving employment must be that which is reasonable to the average person, not the overly sensitive individual or the claimant in particular. *Uniweld Products v. Indus. Relations Comm'n*, 277 So.2d 827 (Fla. Dist. Ct. App. 1973).

Claimant was out because she was ill. Claimant needed to return leave of absence forms to employer but failed to do so from March 17, 2021 through May 12, 2021. She told her employer it was due to the doctor being busy. This constitutes a quit without good cause attributable to the employer. As such, benefits must be denied.

**DECISION:**

Claimant's appeal is considered timely and the August 10, 2021 (reference 01) unemployment insurance decision denying benefits is **AFFIRMED**. Claimant's voluntary quit is without good cause attributable to the employer. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.



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Darrin T. Hamilton  
Administrative Law Judge

November 4, 2021  
Decision Dated and Mailed

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dh/kmj