

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

**JOHN S HARMS**  
Claimant

**APPEAL NO. 19A-UI-01348-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**WINGER CONTRACTING CO**  
Employer

**OC: 12/09/18**  
**Claimant: Respondent (6)**

Iowa Code Section 96.4(3) – Able & Available  
Iowa Code Section 96.19(38)(b) – Partial Unemployment  
Iowa Code Section 96.19(38)(c) – Temporary Unemployment  
Iowa Administrative Code rule 871-26.8(1) - Withdrawal of Appeal

**STATEMENT OF THE CASE:**

The employer filed a timely appeal from the February 13, 2019, reference 02, decision that allowed benefits to the claimant effective February 3, 2019 provided he was otherwise eligible, based on the deputy's conclusion that the claimant was able and available for work but temporarily laid off. A hearing is scheduled for 3:00 p.m. March 1, 2019 and the Appeals Bureau has appropriately notified the parties. Prior to the hearing, employer's counsel of record, Patrick Curran, requested on behalf of the employer that the appeal be withdrawn.

**FINDINGS OF FACT:**

The employer is the appellant in this matter. The appeal hearing is set for 3:00 p.m. on March 1, 2019. On the morning of March 1, 2019, the employer requested to withdraw the appeal in this matter. The employer's request was made as part of a recorded telephone call between employer's counsel of record, Patrick Curran, and the administrative law judge. The request to withdraw was made before a decision was entered in connection with the appeal.

**REASONING AND CONCLUSIONS OF LAW:**

Iowa Admin. Code r. 871-26.8(1) provides:

(1) An appeal may be withdrawn at any time prior to the issuance of a decision upon the request of the appellant and with the approval of an administrative law judge or the manager or chief administrative law judge of the appeals bureau. Requests for withdrawal may be made in writing or orally, provided the oral request is recorded by the presiding officer.

An appeal may be dismissed upon the request of a party or in the agency's discretion when the issue or issues on appeal have been resolved in the appellant's favor.

The administrative law judge is familiar with the Agency administrative file and concludes that the employer's request to withdraw the appeal should be approved.

**DECISION:**

The employer's request to withdraw the appeal is approved. The February 13, 2019, reference 02, decision that allowed benefits to the claimant effective February 3, 2019 provided he was otherwise eligible, based on the deputy's conclusion that the claimant was able and available for work but temporarily laid off, shall stand. The hearing set for 3:00 p.m. on March 1, 2019 is cancelled.

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James E. Timberland  
Administrative Law Judge

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Decision Dated and Mailed

jet/rvs