

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**KELLY MCVIETTY**  
Claimant

**KIDDIE KARRASEL**  
Employer

**APPEAL 20A-UI-13540-CL-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 03/22/20**  
**Claimant: Appellant (6)**

Iowa Code § 96.3(7) – Recovery of Benefit Overpayment  
Iowa Admin. Code r. 871-26.8(1) – Dismissal of Appeal

**STATEMENT OF THE CASE:**

On October 29, 2020, the claimant filed an appeal from the October 26, 2020, (reference 02) unemployment insurance decision that found claimant overpaid benefits. After due notice was issued, a hearing was scheduled to be held on December 29, 2020. Because the issue appealed was resolved administratively prior to the hearing in the appellant's favor (see the reference 03 representative's decision), no testimony was necessary and no hearing was held.

**ISSUE:**

Should the appeal be dismissed because the issue on appeal has been resolved in the appellant's favor?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The decision appealed has been amended in favor of the appellant by the reference 03 representative's decision.

**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(1) An appeal may be withdrawn at any time prior to the issuance of a decision upon the request of the appellant and with the approval of an administrative law judge or the manager or chief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 tape-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.

Inasmuch as the agency lowered the overpayment prior to the hearing, and the claimant has now withdrawn the appeal on the lowered amount, there is no issue for the administrative law judge to adjudicate.

**DECISION:**

The appeal of the October 26, 2020, (reference 02 unemployment insurance decision is dismissed. The overpayment has been reduced.



---

Christine A. Louis  
Administrative Law Judge  
Unemployment Insurance Appeals Bureau  
1000 East Grand Avenue  
Des Moines, Iowa 50319-0209  
Fax (515)478-3528

December 17, 2020  
Decision Dated and Mailed

cal/scn