

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

BRIANNA L KIRTON
Claimant

APPEAL NO. 20A-UI-00367-JT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MARTIN LUTHER HOME CORPORATION
Employer

**OC: 12/15/19
Claimant: Appellant (6)**

Iowa Code Section 96.5(1) – Voluntary Quit
Iowa Administrative Code rule 871-26.8(1) - Withdrawal of Appeal

STATEMENT OF THE CASE:

Brianna Kirton filed an appeal from the January 10, 2020, reference 01, decision that disqualified her for benefits and that relieved the employer's account of liability for benefits, based on the deputy's conclusion that Ms. Kirton voluntarily quit on November 30, 2019 without good cause attributable to the employer. A hearing was scheduled for February 27, 2020. Prior to the hearing being held, the Ms. Kirton requested the appeal be withdrawn.

FINDINGS OF FACT:

Claimant Brianna Kirton is the appellant in this matter. An appeal hearing was set for February 27, 2020. On February 19, 2020, the employer submitted a written request to reschedule the appeal hearing. On February 19, 2020, the administrative law judge telephoned Ms. Kirton for the purpose of giving notice that the hearing would be rescheduled and to inquire whether Ms. Kirton in fact desired an in-person hearing. The telephone call was a recorded call. The Appeals Bureau had scheduled the matter for an in-person hearing based on statements in Ms. Kirton's online appeal, but in the absence of an explicit request for an in-person hearing. When the administrative law contacted Ms. Kirton on February 20, 2020, Ms. Kirton stated she had new employment, had ceased making weekly claims, and desired to withdraw her appeal. After confirming that Ms. Kirton's request to withdraw the appeal was a knowing and voluntary request, the administrative law judge advised Ms. Kirton that he would approve the request to withdraw the appeal. Ms. Kirton made her request to withdraw the appeal 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(1) An appeal may be withdrawn at any time prior to the issuance of a decision upon the request of the appellant and with the approval of an administrative law judge or the manager or chief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 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.

The administrative law judge has reviewed the administrative file, has had an opportunity to speak directly with Ms. Kirton regarding her request to withdraw the appeal, and concludes that Ms. Kirton's request to withdraw the appeal should be approved.

DECISION:

The claimant's request to withdraw the appeal is approved. The January 10, 2020, reference 01, decision that disqualified the claimant for benefits and that relieved the employer's account of liability for benefits, based on the deputy's conclusion that the claimant voluntarily quit on November 30, 2019 without good cause attributable to the employer, remains in effect. The hearing set for February 27, 2020 is cancelled.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/scn