

**BEFORE THE
EMPLOYMENT APPEAL BOARD
Lucas State Office Building
Fourth floor
Des Moines, Iowa 50319**

JOEL W MILLER

Claimant

and

ALTER TRADING CORPORATION

Employer

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HEARING NUMBER: 16B-UI-02191

**EMPLOYMENT APPEAL BOARD
DECISION**

SECTION: 26.8-1

DECISION

The Claimant appealed this case to the Employment Appeal Board. The members of the Employment Appeal Board reviewed the entire record. The Appeal Board finds it cannot affirm the administrative law judge's decision. The Employment Appeal Board **REVERSES** as set forth below.

FINDINGS OF FACT:

On February 17, 2016 the benefits Bureau issued a decision disqualifying Joel Miller (Claimant) based on the nature of his separation of employment with Alter Trading Corporation (Employer). On February 20, 2016 the Claimant appealed that decision via Workforce's online appeal system. In that appeal the Claimant was the Appellant, and the Employer the Respondent. The case was set for a hearing on March 14, 2016 at 3 p.m. On March 3, 2016 the Employer, through Employers Unity, sent a letter stating "We respectfully request to withdraw our appeal for the hearing scheduled for 3/14/2016 3:00:00 pm." On March 10, 2016 the Administrative Law Judge issued a decision approving withdrawal of the appeal. No hearing was held.

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(1) An appeal may be withdrawn at any time prior to the issuance of a decision upon the request of the **appellant** and with the approval of the presiding officer to whom the case is assigned. Requests for withdrawal may be made in writing or orally, provided the oral request is tape-recorded by the presiding officer.

Here the appellant did not withdraw the appeal, rather a statement indicating that was made by the Appellee. As stated in the rule only an appellant may withdraw an appeal. An appellee may not withdraw an appeal. Here the Employer was the Appellee and had no standing to withdraw the Claimant's appeal. We, of course, express no opinion on the merits of any other issue in this case.

DECISION:

The administrative law judge's decision dated March 10, 2016 is **REVERSED**. The Employment Appeal Board concludes that the Claimant was the appellant, and that the Claimant did not withdraw the appeal. Accordingly, the decision of the Administrative Law Judge dismissing the appeal is vacated, the appeal to the Administrative Law Judge is reinstated, and this matter is remanded for a hearing on the merits of the case.

Kim D. Schmett

Ashley R. Koopmans

James M. Strohman

RRA/fnv