

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RAYMOND A SCOTT
Claimant

APPEAL NO: 14A-UI-10559-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

1ST CLASS STAFFING LLC
Employer

OC: 09/07/14
Claimant: Appellant (6)

871 IAC 26.8(1) - Withdrawal of Appeal

STATEMENT OF THE CASE:

An appeal was filed from a representative's decision dated October 6, 2014 (reference 01). A hearing was scheduled for October 29, 2014. Prior to the hearing being held, the appellant requested the appeal be withdrawn. Therefore, there is no need for a hearing. Based on a review of the administrative file and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Should the appellant's request to withdraw the appeal be granted?

FINDINGS OF FACT:

A request has been made by Raymond A. Scott (claimant), the appealing party, to withdraw the appeal. The request is submitted because the claimant never intended to suggest that his separation from the employer was due to a "business closure," and he is not seeking any more than the normal unemployment insurance benefits as he would receive during a period of temporary unemployment.

REASONING AND CONCLUSIONS OF LAW:

Rule 871 IAC 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- (1) An appeal may be withdrawn at any time prior to the issuance of a decision upon the request of the appellant and with the approval of the presiding officer to whom the case is assigned.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.

Normally, the maximum total amount of benefits payable to an eligible individual during a benefit year is the lesser of twenty-six times the individual's weekly benefit amount or the total of the claimant's base period wage credits. However, under usual circumstances, if the claimant is laid off due to the claimant's employer going out of business at the factory, establishment, or other premises at which the claimant was last employed, the maximum benefits payable are

extended to the lesser of thirty-nine times the claimant weekly benefit amount or the total of the claimant's wage credits. Iowa Code § 96.3-5.

Rule 871 IAC 24.29(2) provides:

Going out of business means any factory, establishment, or other premises of an employer which closes its door and ceases to function as a business; however, an employer is not considered to have gone out of business at the factory, establishment, or other premises in any case in which the employer sells or otherwise transfers the business to another employer, and the successor employer continues to operate the business.][Where a claimant is temporarily laid off with the expectation of returning to work once temporary or seasonal factors have been eliminated, but the employer then goes out of business, the claimant is eligible for business closing benefits.]

The claimant agrees that the employer did not "go out of business" and that he would not be entitled to a recalculation of benefits as due to a business closure. He remains eligible for the normal unemployment insurance benefits, provided he is otherwise qualified.

The request of the appealing party to withdraw the appeal should be approved.

DECISION:

The decision of the representative dated October 6, 2014 (reference 01) is affirmed. The request of the appealing party to withdraw the appeal is approved, and there will be no hearing. The decision of the representative shall stand and remain in full force and effect. The claimant is entitled to receive unemployment insurance benefits, provided he is otherwise eligible, but not for the additional 13 weeks as would be if the separation was due to a "business closure."

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/css