

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

DAWN M JORGENSON
Claimant

APPEAL 18A-UI-09450-SC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

HAWKEYE COMMUNITY COLLEGE
Employer

**OC: 12/24/17
Claimant: Appellant (6)**

Iowa Code Ch. 17A – Iowa Administrative Procedure Act
Iowa Admin. Code r. 871-24.19(3) – Claims Bureau Subsequent Action
Iowa Admin. Code r. 871-26.8(1) - Dismissal
Iowa Admin. Code r. 871-26.11 – Motions
Iowa Code § 96.4(3) – Ability to and Availability for Work
Iowa Admin. Code r. 871-24.22(2) – Able & Available - Benefits Eligibility Conditions

STATEMENT OF THE CASE:

Dawn M. Jorgenson, (claimant/appellant) filed an appeal from the unemployment insurance decision dated September 7, 2018, reference 07, that determined she was not eligible for unemployment insurance benefits as of August 19, 2018, because she was not able to and available for work. Before a hearing was held, Iowa Workforce Development (IWD) issued a favorable decision to the claimant, dated September 17, 2018, reference 08 which amends 07, stating that she is eligible for unemployment insurance benefits because she was able to and available for work. Additionally, according to the fact-finding documents, the decision was amended as the claimant is receiving Training Extension Benefits (TEB) rendering the issue of able to and available for work moot and relieving the employer's account of charges for any TEB benefits. The subsequent decision made the issue on appeal moot. Therefore, no testimony or additional evidence was necessary. No hearing was held.

ISSUES:

Should the most recent unemployment insurance decision be affirmed?
Should the appeal be dismissed as moot?

FINDINGS OF FACT:

These findings of fact are based on the pertinent agency documents relating to this claimant and his appeal. An unemployment insurance decision dated September 7, 2018, reference 07, determined that the claimant was not eligible for unemployment insurance benefits as of August 19, 2018, because she was not able to and available for work. The claimant appealed this decision.

Before a hearing was held, IWD issued a favorable decision to the claimant, dated September 17, 2018, reference 08 which amends 07, stating that she is eligible for

unemployment insurance, as long as she meets all the other eligibility requirements, because she is able to and available for work. Additionally, according to the fact-finding documents, the decision was amended as the claimant is receiving TEB rendering the issue of able to and available for work moot and relieving the employer's account of charges related to the TEB benefits. This decision resolved the only issue on appeal in the appellant's favor, making the appeal moot.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge dismisses the appeal as moot.

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

Withdrawals, dismissals, and postponements.

(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.

Generally, courts and administrative tribunals do not decide issues when the underlying controversy is moot. *Rhiner v. State*, 703 N.W.2d 174, 176 (Iowa 2005). "A case is moot if it no longer presents a justiciable controversy because the issues involved are academic or nonexistent." *Iowa Bankers Ass'n v. Iowa Credit Union Dep't*, 335 N.W.2d 439, 442 (Iowa 1983)

The decision appealed was amended in favor of the appellant, making this appeal moot. The appeal of the original representative's decision dated September 7, 2018, reference 07, is dismissed. The most recent decision, dated September 17, 2018, reference 08 which amends 07, is affirmed. A note to the employer, the claimant is currently eligible for and receiving TEB which means the employer's account is not subject to charge for any TEB benefits paid to the claimant. Iowa Code § 96.3(5)b(4).

DECISION:

The appeal of the unemployment insurance decision dated September 7, 2018, reference 07, is dismissed as moot. The decision issued on September 17, 2018, reference 08, which amends 07, is affirmed. A note to the employer, the claimant is currently eligible for and receiving TEB which means the employer's account is not subject to charge for any TEB benefits paid to the claimant.

The hearing scheduled on September 28, 2018 at 8:00 a.m. is cancelled.

Stephanie R. Callahan
Administrative Law Judge

Decision Dated and Mailed

src/scn