

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TIMOTHY W NOEL
Claimant

APPEAL NO. 10A-UI-02741-ST

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 10/25/09
Claimant: Respondent (6)

871 IAC 26.8(1) - Dismissal of Appeal

STATEMENT OF THE CASE:

The claimant appealed from a representative's decision dated February 9, 2010, reference 03, that held he was overpaid benefits \$854.00. A telephone hearing was scheduled for April 5, 2010. Prior to the hearing being held, the administrative law judge dismissed the appeal.

ISSUE:

The issue is whether the appeal should be dismissed.

FINDINGS OF FACT:

The administrative law judge, having considered the evidence in the record, finds that: The claimant appealed from an unfavorable decision dated November 19, 2009, reference 01, regarding his voluntary quit from the employer on September 25. The department issued an amended decision dated January 28, 2010, reference 02, that made the claimant eligible for benefits, as a voluntary quit of part-time, base period employment. The amended decision eliminates the overpayment, as reflected by the department action of record.

REASONING AND CONCLUSIONS OF LAW:

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- (1) An appeal may be withdrawn at any time prior to the issuance of a decision upon the request of the appellant and with the approval of the presiding officer to whom the case is assigned.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

The administrative law judge has reviewed the records and files herein and concludes that the claimant's appeal should be dismissed.

The department issued a subsequent decision on January 28, 2010 that amended the earlier decision that had denied the claimant benefits. Since the amended decision allows benefits by

removing the disqualification that makes the claimant eligible, there is no overpayment. The April 5, 2010 hearing is canceled.

DECISION:

The claimant's appeal is dismissed, and the hearing is canceled. The department decision dated February 9, 2010, reference 03, is set aside, and there is no overpayment.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

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