

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ADAM C GREGORY
Claimant

APPEAL NO. 11A-UI-02374-VST

**ADMINISTRATIVE LAW JUDGE
DECISION**

MIDSTATES BUILDERS INC
Employer

OC: 01/09/11
Claimant: Respondent (6)

871 IAC 26.8(1) – Withdrawal of Appeal

STATEMENT OF THE CASE:

The employer filed an appeal from the February 25, 2011, reference 02, decision that held that the claimant was eligible for partial unemployment benefits for the week ending January 15, 2011. A telephone hearing was scheduled for March 29, 2010. The claimant did not respond to the hearing notice. The employer responded by Craig Wampler.

Mr. Wampler told the administrative law judge that the reason the employer filed the appeal was that the claimant has since voluntarily quit his job on January 20, 2011. Mr. Wampler was concerned that if an appeal was not filed that the employer would not be able to later contest any claim for benefits on the basis of that voluntary quit. The administrative law explained that the separation issue was not before her in this hearing. The only issue was whether the claimant was eligible for \$85.00 in partial unemployment benefits for the week ending January 15, 2011. Mr. Wampler did not dispute the claimant's eligibility for benefits for the week ending January 15, 2011. He agreed that the appeal could be withdrawn. The entire conversation with the administrative law judge was recorded by digital audiotape.

ISSUE:

Whether the appellant should be permitted to withdraw its appeal.

FINDINGS OF FACT:

The administrative law judge, having reviewed the record, makes the following findings of fact: On March 29, 2011, the employer made an oral request to withdraw its appeal filed on February 28, 2011. The request was recorded by digital audiotape.

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- (1) An appeal may be withdrawn at any time prior to the issuance of a decision upon the request of the appellant and with the approval of the presiding officer to whom the case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

DECISION:

The request of the appealing party to withdraw the appeal is approved. The Agency representative's decision dated February 25, 2011, reference 02, shall stand and remain in full force and effect. Nothing in that decision shall preclude the employer from contesting the nature of the claimant's separation in the event that the claimant files a further claim for benefits.

Vicki L. Seeck
Administrative Law Judge

Decision Dated and Mailed

vls/css