

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RONDA E SWEARINGEN
Claimant

APPEAL NO. 07A-UI-09730-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

HY-VEE INC
Employer

OC: 09/16/07 R: 04
Claimant: Respondent (6)

871 IAC 26.8(1) - Withdrawal of Appeal

STATEMENT OF THE CASE:

An appeal was filed from a representative's decision dated October 15, 2007 (reference 01). A hearing was scheduled for December 13, 2007. Prior to the hearing being held, the appellant requested the appeal be withdrawn. 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 on behalf of Hy-Vee, Inc. (employer), the appealing party, to withdraw the appeal. The request has been submitted because the separation has some relation to a criminal court proceeding, and that proceeding will likely not reach its conclusion until January, February or March 2008. The employer is reserving its right to reassert a challenge to the claimant's eligibility should the resolution of the criminal proceeding provide the basis that the separation was due to gross misconduct on the part of the claimant under Iowa Code § 96.5-2-c.

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(1) An appeal may be withdrawn at any time prior to the issuance of a decision upon the request of the appellant and with the approval of the presiding officer to whom the case is assigned.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

DECISION:

The decision of the representative dated October 15, 2007 (reference 01) is affirmed. The request of the appealing party to withdraw the appeal is approved, and the decision of the representative shall stand and remain in full force and effect. The claimant is entitled to receive unemployment insurance benefits, provided she is otherwise eligible.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/kjw