

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SCOTT D RICHTER
Claimant

APPEAL NO: 13A-UI-10137-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

BIO SPRINGER NORTH AMERICA CORP
Employer

OC: 07/28/13
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 August 15, 2013 (reference 01). A hearing was scheduled for 1:00 p.m. on October 2, 2013. The claimant received the hearing notice and responded by calling the Appeals Section on September 12, 2013. He indicated that he would be available at the scheduled date and time for the hearing at a specified telephone number. However, when the administrative law judge called that number at the scheduled time for the hearing, the claimant was not available; therefore, the claimant did not participate in the hearing. The administrative law judge considered the record closed at 1: 10 p.m. At 1:24 p.m., the claimant called the Appeals Section. When he spoke to the judge, he decided to withdraw his appeal. Therefore, there is no need for a determination as to whether the claimant's request to reopen the record and reschedule the hearing should be granted. 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 Scott D. Richter (claimant), the appealing party, to withdraw the appeal. The reason for the request is that the claimant has started new employment; as of the scheduled date of the hearing, the claimant had only filed one weekly continued claim, for the benefit week ending August 3, 2013, and so even if he were to prevail on the appeal he would need to take further action to seek and receive approval to file backdated weekly continued claims for any other weeks for which he might have been unemployed. The claimant has determined not to pursue the matter further.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge notes that even if the employer does not protest or challenge a former employee's claim for unemployment insurance benefits, claimants are not automatically qualified to receive unemployment insurance benefits. *Kehde v. IDJS*, 318 N.W.2d 202 (Iowa

1982). The Agency may investigate and determine issues that appear to disqualify a claimant even in the absence of a protest or challenge by the employer. *Flesher v. IDJS*, 372 N.W.2d 230 (Iowa 1985).

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 August 15, 2013 (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. Benefits are withheld until such time as the claimant has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided the claimant is then otherwise eligible.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/css