

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MARK D WESTBY**

Claimant

**APPEAL NO: 08A-UI-06157-DT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**LABOR READY MIDWEST INC**

Employer

**OC: 05/18/08 R: 04  
Claimant: Respondent (6)**

871 IAC 26.8(1) - Withdrawal of Appeal

**STATEMENT OF THE CASE:**

Labor Ready Midwest, Inc. (employer)) appealed a representative's decision dated June 23, 2008 (reference 04), which concluded Mark D. Westby (claimant) was qualified to receive unemployment insurance benefits and the employer's account might be charged because the employer's protest was not timely filed. A hearing was scheduled and convened on July 21, 2008. The claimant failed to respond to the hearing notice and provide a telephone number at which he could be reached for the hearing and did not participate in the hearing. Bochen (Dan) Uang of TALX Employer Services participated on behalf of the employer. The record was left open to allow the employer to seek to provide additional documentation. In lieu of providing further information, prior to the issuance of a decision in the matter, the employer concluded that the representative's determination that the protest was not timely was correct, and requested that the appeal be withdrawn. Therefore, there is no need for further hearing or evidence. 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 the employer, the appealing party, to withdraw the appeal.

**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(1) An appeal may be withdrawn at any time prior to the issuance of a decision upon the request of the appellant and with the approval of the presiding officer to whom the case is assigned.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 June 23, 2008 (reference 04) 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. The claimant is entitled to receive unemployment insurance benefits, provided he is otherwise eligible.

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Lynette A. F. Donner  
Administrative Law Judge

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Decision Dated and Mailed

ld/pjs