

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

THERESA L FLETCHER
Claimant

HY-VEE INC
Employer

APPEAL 21A-UI-09609-SC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 02/21/21
Claimant: Appellant (6)**

Iowa Code § 96.4(3) – Able to and Available for Work
Iowa Admin. Code r. 871-24.23(26) – Available – Part-time Same Wages and Hours
Iowa Code § 96.19(38) – Total, Partial, and Temporary Unemployment
Iowa Code § 96.7(2)a(2) – Employer Chargeability
Iowa Code Ch. 17A – Iowa Administrative Procedure Act
Iowa Admin. Code r. 871-26.8(1) - Dismissal

STATEMENT OF THE CASE:

On March 31, 2021, Theresa L. Fletcher (claimant/appellant) filed an appeal from the unemployment insurance decision dated March 25, 2021, reference 01, that determined she was not eligible for unemployment insurance benefits effective February 21, 2021, because she was still employed in the same hours and wages with Hy-Vee Inc. (employer/respondent). Before a hearing was held, Iowa Workforce Development (IWD) issued a favorable decision to the claimant and employer, dated March 30, 2021, reference 02, which determined she is eligible for unemployment insurance benefits and the employer shall not be charged. Because the issue appealed was resolved administratively prior to the hearing in the appellant and respondent's favor (see the reference 02 unemployment insurance decision), no testimony was necessary and no hearing was scheduled or held.

ISSUE:

Should the appeal be dismissed because the issue on appeal has been resolved in the appellant's favor?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The decision appealed has been amended in favor of the appellant by the reference 02 unemployment insurance decision.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge dismisses the appeal as moot.

Iowa Admin. Code r. 871-26.8(1) provides:

Withdrawals, dismissals, and postponements.

(1) An appeal may be withdrawn at any time prior to the issuance of a decision upon the request of the appellant and with the approval of an administrative law judge or the manager or chief administrative law judge of the appeals bureau. Requests for withdrawal may be made in writing or orally, provided the oral request is recorded by the presiding officer.

An appeal may be dismissed upon the request of a party or in the agency's discretion when the issue or issues on appeal have been resolved in the appellant's favor.

Generally, courts and administrative tribunals do not decide issues when the underlying controversy is moot. *Rhiner v. State*, 703 N.W.2d 174, 176 (Iowa 2005). "A case is moot if it no longer presents a justiciable controversy because the issues involved are academic or nonexistent." *Iowa Bankers Ass'n v. Iowa Credit Union Dep't*, 335 N.W.2d 439, 442 (Iowa 1983). As the agency reversed the previous disqualification decision prior to the hearing, there is no issue for the administrative law judge to adjudicate.

DECISION:

The appeal of the unemployment insurance decision dated March 25, 2021, reference 01, is dismissed as moot.



Stephanie R. Callahan
Administrative Law Judge

July 1, 2021
Decision Dated and Mailed

src/scn