

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

GARY A HAMMER
Claimant

APPEAL NO. 10A-UI-08690-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

FINZEN PIGGERY INC
Employer

OC: 11/08/09
Claimant: Respondent (6)

871 IAC 26.8(1) - Withdrawal of Appeal

STATEMENT OF THE CASE:

The employer filed an appeal from the June 15, 2010, reference 05, decision that allowed benefits. A hearing was scheduled for August 2, 2010. The employer requested and the administrative law judge granted a request to postpone the hearing. Prior to the hearing being held, the appellant requested the appeal be withdrawn.

FINDINGS OF FACT:

This matter was set for hearing on August 2, 2010. The employer submitted an initial request to postpone the hearing that was based on the employer's desire to have and review the fact-finding materials, but that postponement request was denied for lack of good cause and because the fact-finding materials were available to be mailed to the parties. The employer followed with a second request to postpone the hearing due to unavailability of the employer's legal counsel on August 2, 2010 and due to witness Marcia Finzen's health issues. The administrative law judge granted the second request to postpone the hearing based on the employer's health issues. Before a new date for the hearing was selected, or new notice sent to the parties, the employer submitted a request to withdraw the appeal. The request was submitted by the employer's legal counsel by fax on July 28, 2010. The request references a July 27, 2010 letter from Ms. Finzen to the administrative law judge, but the administrative law judge has not yet received or reviewed that letter.

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- (1) An appeal may be withdrawn at any time prior to the issuance of a decision upon the request of the appellant and with the approval of the presiding officer to whom the case is assigned.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 administrative record 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 June 15, 2010, reference 05, decision shall stand and remain in full force and effect.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/pjs