

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

LEWIS T KIHANYA
Claimant

APPEAL 21A-UI-00594-SC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

OC: 04/12/20
Claimant: Appellant (6)

Iowa Code § 96.3(7) – Overpayment of Benefits
Iowa Code Ch. 17A – Iowa Administrative Procedure Act
Iowa Admin. Code r. 871-26.8(1) - Dismissal

STATEMENT OF THE CASE:

On November 27, 2020, Lewis T Kihanya (claimant/appellant) filed an appeal from the unemployment insurance decision dated December 15, 2020, reference 06, that determined he was overpaid \$6,330.00 in unemployment insurance benefits. Before a hearing was held, the agency issued an amended decision, dated January 29, 2021, reference 07, and reduced the overpayment to \$1,224.00, which is addressed in appeal 21A-UI-02244-SC-T. The amended decision made the prior decision null and void. Therefore, no testimony was necessary and no hearing was held.

ISSUE:

Should the appeal be dismissed because the decision issued has been rendered null and void?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The decision appealed was amended by the unemployment insurance decision dated January 29, 2021, reference 07, which is addressed in appeal 21A-UI-02244-SC-T.

REASONING AND CONCLUSIONS OF LAW:

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

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(1) An appeal may be withdrawn at any time prior to the issuance of a decision upon the request of the appellant and with the approval of an administrative law judge or the manager or chief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 amended the decision prior to the hearing, the initial decision is null and void rendering the appeal moot.

The overpayment issue is addressed in appeal 21A-02244-SC-T

DECISION:

The appeal of the unemployment insurance decision dated December 15, 2020, reference 06, is dismissed as it is moot.



Stephanie R. Callahan
Administrative Law Judge

February 25, 2021
Decision Dated and Mailed

src/scn