

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

CHAD A BARLOW
Claimant

NSK CORPORATION
Employer

APPEAL NO. 20A-UI-11552-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 04/05/20
Claimant: Respondent (6)

Iowa Code Section 96.5(2)(a) - Discharge
Iowa Administrative Code rule 871-26.8(1) - Withdrawal of Appeal

STATEMENT OF THE CASE:

The employer filed a late appeal from the June 9, 2020, reference 01, decision that allowed benefits to the claimant, provided he was otherwise eligible, and that held the employer's account could be charged for benefits, based on the deputy's conclusion that the claimant was discharged on March 26, 2020 for no disqualifying reason. A hearing was scheduled for November 13, 2020. Claimant Chad Barlow appeared. Katie Purdy represented the employer and presented testimony through Sara Paschal. During Ms. Paschal testimony regarding the late filing of the appeal, Ms. Purdy requested to withdraw the appeal.

FINDINGS OF FACT:

The employer is the appellant in this matter. The parties appeared for an appeal hearing on November 13, 2020. Timeliness of appeal was at issue. At the conclusion of the administrative law judge's questions for Sarah Paschal concerning the timeliness of the appeal, Ms. Purdy requested to withdraw the appeal in light of the late filing of the appeal. The appeal was due on June 19, 2020. Ms. Paschal testified that the employer's third-party representative of record, Thomas & Company, received the decision on June 16, 2020, but did not file an appeal by until September 18, 2020. The employer's request to withdraw the appeal was made before the administrative law judge had entered a decision in connection with the appeal.

REASONING AND CONCLUSIONS OF LAW:

Iowa Admin. Code r. 871-26.8(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- (1) An appeal may be withdrawn at any time prior to the issuance of a decision upon the request of the appellant and with the approval of an administrative law judge or the manager or chief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 tape-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.

The administrative law judge had reviewed the administrative file, has taken testimony from the employer's primary witness on the timeliness issue, and concludes that the employer's request to withdraw the late appeal should be approved.

DECISION:

The employer's request to withdraw the late appeal is approved. The June 9, 2020, reference 01, decision that allowed benefits to the claimant, provided he was otherwise eligible, and that held the employer's account could be charged for benefits, based on the deputy's conclusion that the claimant was discharged on March 26, 2020 for no disqualifying reason, remains in effect. Based on withdraw of the appeal, the remainder of the November 13, 2020 appeal was cancelled.



James E. Timberland
Administrative Law Judge

November 19, 2020
Decision Dated and Mailed

jet/mh