

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MIKE D COLLINS**  
Claimant

**APPEAL NO. 09A-UI-07469-ST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**SDH SERVICES WEST LLC**  
Employer

**Original Claim: 04/05/09  
Claimant: Respondent (6)**

871 IAC 26.8(3), (4), and (5) – Withdrawals and Postponements

**STATEMENT OF THE CASE:**

The employer appealed a department representative's decision dated May 8, 2009, reference 03, that held the claimant was discharged for no act of misconduct on April 3, 2009, and benefits were allowed.

A telephone hearing was scheduled for June 3, 2009. Prior to the hearing, the employer's representative faxed a written request on May 29, 2009, to withdraw its appeal.

**ISSUE:**

The issue is whether the claimant was discharged for misconduct in connection with employment.

**FINDINGS OF FACT:**

The administrative law judge, having considered all the evidence in the record, finds: The employer's request to withdraw its appeal is approved.

**REASONING AND CONCLUSIONS OF LAW:**

871 IAC 26.8(3), (4) and (5) provide:

Withdrawals and postponements.

(3) If, due to emergency or other good cause, a party, having received due notice, is unable to attend a hearing or request postponement within the prescribed time, the presiding officer may, if no decision has been issued, reopen the record and, with notice to all parties, schedule another hearing. If a decision has been issued, the decision may be vacated upon the presiding officer's own motion or at the request of a party within 15 days after the mailing date of the decision and in the absence of an appeal to the employment appeal board of the department of inspections and appeals. If a decision is vacated, notice shall be given to all parties of a new hearing to be held and decided by

another presiding officer. Once a decision has become final as provided by statute, the presiding officer has no jurisdiction to reopen the record or vacate the decision.

(4) A request to reopen a record or vacate a decision may be heard ex parte by the presiding officer. The granting or denial of such a request may be used as a grounds for appeal to the employment appeal board of the department of inspections and appeals upon the issuance of the presiding officer's final decision in the case.

(5) If good cause for postponement or reopening has not been shown, the presiding officer shall make a decision based upon whatever evidence is properly in the record.

The administrative law judge concludes that the employer's request to withdraw its appeal is approved.

**DECISION:**

The department representative's decision dated May 8, 2009, reference 03, is affirmed. The employer's request to withdraw its appeal is approved. Benefits are allowed, provided the claimant is otherwise eligible.

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R.L. Stephenson  
Administrative Law Judge

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Decision Dated and Mailed

kjw/kjw