

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RICKY V MALLARD
Claimant

APPEAL NO. 10A-UI-01279-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

VINE VENTURES INC
THE VINE TAVERN & EATERY
Employer

OC: 11/29/09
Claimant: Appellant (6)

871 IAC 26.8(1) - Withdrawal of Appeal

STATEMENT OF THE CASE:

Ricky Mallard filed an appeal from the January 15, 2010, reference 03, decision that denied benefits effective December 13, 2009 based on Agency conclusion that he had unduly restricted his work availability and did not meet the work availability requirements of Iowa Code section 96.4(3). A hearing was scheduled for June 3, 2010. The hearing in this matter was consolidated with the hearing concerning Appeal Numbers 10A-UI-01281-JTT and 10A-UI-03106-JTT. Prior to the hearing being held, Mr. Mallard requested the appeal be withdrawn.

FINDINGS OF FACT:

This matter was rescheduled multiple times to satisfy appellant Rick Mallard's requests for exhibit materials and request that the employer make two kitchen managers available to testify. The matter was ultimately scheduled for a telephone hearing on June 3, 2010 at 8:00 a.m. The parties were properly notified of the hearing by notice mailed on May 24, 2010. At the scheduled start of the hearing, prior to the presentation of evidence, Mr. Mallard made an on-the-record request to withdraw his appeal in this matter and two related matters.

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- (1) An appeal may be withdrawn at any time prior to the issuance of a decision upon the request of the appellant and with the approval of the presiding officer to whom the case is assigned.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 records and files herein and concludes that Mr. Mallard's request to withdraw his appeal should be approved.

DECISION:

The request of the appealing party to withdraw the appeal is approved. The Agency representative's January 15, 2010, reference 03, decision shall stand and remain in full force and effect. Pursuant to that decision, the claimant is ineligible for benefits effective December 13, 2009 based on his failure to meet the work availability requirements of Iowa Code section 96.4(3).

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/pjs