

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

MICHAEL M MOORE
Claimant

VAN WYK INC
Employer

APPEAL NO. 20A-UI-02334-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 02/16/20
Claimant: Appellant (6/R)

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

STATEMENT OF THE CASE:

Michael Moore filed a timely appeal from the March 10, 2020, reference 01, decision that disqualified him for unemployment insurance benefits and that relieved the employer's account of liability for benefits, based on the deputy's conclusion that Mr. Moore was discharged on April 17, 2019 for violation of a known company rule. A hearing was scheduled for April 28, 2020 and the parties were appropriately notified. Mr. Moore appeared at the time of the hearing. The employer appeared through Darla Arends. Prior to the presentation of evidence, Mr. Moore requested to withdraw his appeal.

FINDINGS OF FACT:

Claimant Michael Moore is the appellant in this matter. The appeal hearing was scheduled to commence at 8:00 a.m. on April 28, 2020. The administrative law judge contacted Mr. Moore and the employer representative, Darla Arends, for the hearing and provided the opening statement. Immediately after the opening statement, and prior to the presentation of evidence, Mr. Moore told the administrative law judge that he had new employment, did not need to proceed with the appeal hearing, and wished to withdraw his appeal. The administrative law judge spoke with Mr. Moore to ensure that the request to withdraw the appeal was voluntarily and knowingly made. The administrative law judge advised Mr. Moore that withdrawal of the appeal would result in the \$4,810.00 in state benefits and the \$1,200.00 in Federal Pandemic Unemployment Compensation (FPUC) benefits Mr. Moore received being deemed overpayments that Mr. Moore would be required to repay. After this information was provided, Mr. Moore reaffirmed his request to withdraw his appeal. The request to withdraw the appeal was made before a decision was entered in connection with the appeal. In light of the withdrawn appeal, the administrative law judge advised that parties the remainder of the hearing would be cancelled.

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- (1) An appeal may be withdrawn at any time prior to the issuance of a decision upon the request of the appellant and with the approval of an administrative law judge or the manager or chief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 concludes that Mr. Moore's request to withdraw his appeal should be approved.

Note to Claimant: Individuals who do not qualify for regular unemployment insurance benefits due to disqualifying separations, but who are currently unemployed for reasons related to COVID-19 may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.

DECISION:

The claimant's request to withdraw his appeal is approved. The March 10, 2020, reference 01, decision that disqualified the claimant for unemployment insurance benefits and that relieved the employer's account of liability for benefits, based on the deputy's conclusion that the claimant was discharged on April 17, 2019 for violation of a known company rule, remains in effect.

This matter is remanded to the Benefits Bureau for entry of overpayment decisions regarding the \$4,810.00 in state benefits the claimant received for 10 weeks between February 16, 2020 and April 25, 2020 and \$1,200.00 in Federal Pandemic Unemployment Compensation (FPUC) benefits the claimant received for two weeks between April 5, 2020 and April 18, 2020.



James E. Timberland
Administrative Law Judge

April 30, 2020
Decision Dated and Mailed

jet/scn