

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JANEECE L HODGE
Claimant

APPEAL NO: 07A-UI-03416-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

HY-VEE INC
Employer

OC: 02/25/07 R: 03
Claimant: Respondent (6)

871 IAC 26.8(1) - Withdrawal of Appeal

STATEMENT OF THE CASE:

An appeal was filed from a representative's decision dated March 28, 2007 (reference 02). A hearing was scheduled for April 19, 2007. Prior to the hearing being held, the appellant requested the appeal be withdrawn. Based on a review of the administrative file and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Should the appellant's request to withdraw the appeal be granted?

FINDINGS OF FACT:

A request has been made on behalf of Hy-Vee, Inc. (employer), the appealing party, to withdraw the appeal. The request has been submitted based on information received subsequent to the filing of the initial appeal indicating that although the claimant established an initial claim for unemployment insurance benefits effective February 25, 2007, she has made no weekly claims and has received no benefits. Further, her claim is presently locked due to another representative's decision issued March 16, 2007 (reference 01), regarding a separation from employment from a different employer. As the issue in the above captioned case was regarding the claimant's availability for work, a week-to-week issue, should the claimant subsequently reopen her claim, her availability for work in conjunction with her employment with Hy-Vee would be subject to reexamination regardless of what the current availability status might be.

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(1) An appeal may be withdrawn at any time prior to the issuance of a decision upon the request of the appellant and with the approval of the presiding officer to whom the case is assigned.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 request of the appealing party to withdraw the appeal should be approved.

DECISION:

The decision of the representative dated March 28, 2007 (reference 02) is affirmed. The request of the appealing party to withdraw the appeal is approved, and the decision of the representative shall stand and remain in full force and effect. However, as the claimant is currently not otherwise eligible for unemployment insurance benefits, the issue of her current availability is moot.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/pjs