

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**EVELYN A HOLMES**  
Claimant

**APPEAL NO. 08A-UI-00677-AT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**BLACK HAWK COUNTY**  
Employer

**OC: 12/23/07 R: 03**  
**Claimant: Appellant (6)**

Section 96.5-2-a – Discharge for Misconduct  
871 IAC 26.8(1) – Withdrawal of Appeal

**STATEMENT OF THE CASE:**

Evelyn A. Holmes filed a timely appeal from an unemployment insurance decision dated January 15, 2008, reference 01, that disqualified her for benefits. Due notice was issued for a hearing to be held in Waterloo, Iowa on February 20, 2008. The claimant appeared for the hearing. During the testimony of the employer's first witness, however, the claimant announced that she would no longer participate in the proceedings and left the hearing room. The administrative law judge recessed the hearing for five minutes to see if the claimant would return. She did not. With the consent of the employer, the record was then closed.

**ISSUE:**

Should the request to withdraw the appeal be granted?

**FINDINGS OF FACT:**

Having examined all matters of record, the administrative law judge finds: The administrative law judge interprets the claimant's words as her desire to withdraw her appeal and her leaving the hearing room as an action carrying out her intent.

**REASONING AND CONCLUSIONS OF LAW:**

A rule found at 871 IAC 26.8(1) allows the administrative law judge to grant an appellant's request for the withdrawal of its appeal. A review of all matters of record persuades the administrative law judge that it is appropriate to allow the withdrawal of this appeal.

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- (1) An appeal may be withdrawn at any time prior to the issuance of a decision upon the request of the appellant and with the approval of the presiding officer to whom the case is assigned.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

**DECISION:**

The unemployment insurance decision dated January 15, 2008, reference 01, remains in effect. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

---

Dan Anderson  
Administrative Law Judge

---

Decision Dated and Mailed

pjs/kjw