

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

RICHARD T DIX
Claimant

FEDEX FREIGHT EAST INC
Employer

APPEAL 17A-UI-09532-CL-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 07/23/17
Claimant: Respondent (6R)

Iowa Admin. Code r. 871-26.8(1) – Withdrawals, Dismissals, and Postponements
Iowa Code § 96.6(2) – Timeliness of Appeal
Iowa Code §96.4(3) - Able and Available
Iowa Code §96.19(38)a & b – Total and Partial Unemployment
Iowa Code §96.7(2)a(2) – Same Base Period Employment

STATEMENT OF THE CASE:

Employer filed a timely appeal from the August 14, 2017, (reference 04) unemployment insurance decision that allowed claimant and did not charge employer for benefits. After due notice was issued, a hearing was scheduled to be held on October 3, 2017. Because the decision appealed was in employer’s favor, no testimony was necessary and no hearing was held.

ISSUE:

Should the appeal be dismissed because the issue on appeal has been resolved in the appellant’s favor?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The decision appealed is favorable to both parties. Claimant is allowed benefits, but employer will not be charged for the benefits. It appears employer may not have intended to appeal the decision, but was instead attempting to notify the agency that claimant resigned from employment effective August 24, 2017. The Benefits Bureau has not conducted an investigation or made an initial determination on the separation.

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- (1) An appeal may be withdrawn at any time prior to the issuance of a decision upon the request of the appellant and with the approval of an administrative law judge or the manager or chief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.

Inasmuch as the decision appealed was in appellant's favor, there is no issue for the administrative law judge to adjudicate. Therefore the appeal will be dismissed. The issue regarding the separation and whether it disqualifies claimant from receiving benefits after August 24, 2017, is remanded to the Benefits Bureau for an initial investigation and determination.

DECISION:

The August 14, 2017, (reference 04) unemployment insurance decision will remain in full force and effect. The appeal is dismissed. Benefits are allowed, provided claimant is otherwise eligible and employer will not be charged for the benefits.

REMAND:

The issue of whether claimant's separation from employment on August 24, 2017, as delineated in the findings of fact above disqualifies him from receiving unemployment insurance benefits is remanded to the Benefits Bureau for an initial investigation and determination.

Christine A. Louis
Administrative Law Judge
Unemployment Insurance Appeals Bureau
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Decision Dated and Mailed

cal/scn