

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

HERMAN K GIPE
Claimant

APPEAL 18A-UI-11283-JC-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 08/26/18
Claimant: Appellant (6)

Iowa Code § 96.4(3) – Available for work
Iowa Code § 96.4(7) – Reemployment services
Iowa Admin. Code r. 871-24.2(1)e – Reemployment Services
Iowa Code Ch. 17A – Iowa Administrative Procedure Act
Iowa Code Ch. 96 – Iowa Employment Security Act
Iowa Admin. Code r. 871-26.8(1) – Withdrawal of Appeal
Iowa Admin. Code r. 871-26.11 – Motions
Iowa Admin. Code r. 871-24.19(3) – Claims Bureau Subsequent Action

STATEMENT OF THE CASE:

The claimant/appellant filed an appeal from the November 9, 2018 (reference 01) unemployment insurance decision that found claimant was not eligible for unemployment benefits because claimant failed to report for a reemployment services appointment. A hearing was scheduled for December 6, 2018.

Before the hearing date, the claimant received a favorable decision from Iowa Workforce Development, dated November 27, 2018, (reference 02). This decision made the issues on appeal moot. Therefore, no testimony or additional evidence was necessary. Prior to the hearing being held, the Department representative requested the appeal be withdrawn.

ISSUES:

Should the appeal be dismissed as moot based on the Department's motion?
Should the most recent unemployment insurance decision be affirmed?

FINDINGS OF FACT:

The pertinent agency documents relating to this claimant establish the following facts: The claimant/appellant filed an appeal from the unemployment insurance decision November 9, 2018 (reference 01), denying unemployment insurance benefits as of November 4, 2018. This decision stated that the claimant failed to report to Iowa Workforce Development as required.

A telephone hearing was scheduled for this appeal on December 6, 2018. Before the hearing date, claimant received a favorable decision from Iowa Workforce Development, dated

November 27, 2018, reference 02. The decision dated November 27, 2018, reference 02, specifically allowed benefits without a gap in coverage.

This most recent decision resolves the only issue on appeal in the claimant/appellant's favor without a gap in his unemployment insurance eligibility. The issue on appeal is therefore moot.

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(1) An appeal may be withdrawn at any time prior to the issuance of a decision upon the request of the appellant and with the approval of an administrative law judge or the manager or chief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

Generally, courts and administrative tribunals do not decide issues when the underlying controversy is moot. *Rhiner v. State*, 703 N.W.2d 174, 176 (Iowa 2005). "A case is moot if it no longer presents a justiciable controversy because the issues involved are academic or nonexistent." *Iowa Bankers Ass'n v. Iowa Credit Union Dep't*, 335 N.W.2d 439, 442 (Iowa 1983)

The decision appealed was specifically amended in favor of the appellant, as a result of the subsequent reference 02 decision. Consequently, the issue on appeal is moot. The most recent decision, dated November 27, reference 02, is affirmed.

The hearing scheduled for December 6, 2018 is canceled.

DECISION:

The request to dismiss the appeal of the unemployment insurance decision dated November 9, 2018, reference 01, is approved. The decision issued on November 27, 2018, reference 02, is affirmed. The appeal is dismissed as moot.

The hearing scheduled for December 6, 2018 is canceled.

Jennifer L. Beckman
Administrative Law Judge

Decision Dated and Mailed

jlb/scn