

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JENNIFER L SCHWENNEKER
Claimant

APPEAL NO. 11A-UI-10227-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

EXCEPTIONAL PERSONS INC
Employer

OC: 06/26/11
Claimant: Respondent (6-R)

Section 96.4(3) – Temporary Layoff
871 IAC 26.8(1) - Withdrawal of Appeal

STATEMENT OF THE CASE:

The employer filed an appeal from the July 26, 2011, reference 01, decision that allowed benefits based on an Agency conclusion that the claimant was on a short-term layoff. A hearing was scheduled for August 29, 2011. The claimant appeared. Lisa Paterno, human resources director, represented the employer. At the scheduled start of the hearing, the employer/appellant requested the appeal be withdrawn.

ISSUE:

At issue in this matter is whether the appellant herein should be allowed to withdraw its appeal.

FINDINGS OF FACT:

The employer is the appealing party. An appeal hearing was set for August 29, 2011 to address the employer's appeal from the reference 01 decision that allowed benefits based on an Agency conclusion that the claimant was on a short-term layoff. At the scheduled start of the hearing, Lisa Paterno, human resources director, indicated that she was not challenging the decision that the claimant had been temporarily laid off, but instead wanted to pursue the issue of whether the claimant had received vacation pay that was deductible from unemployment insurance benefits. Ms. Paterno requested to withdraw the employer's appeal concerning whether the claimant had been temporarily laid off, with the understanding that the Claims Division is currently addressing, or is about to address, the separate vacation pay issue concerning this claimant. The request to withdraw the appeal was made on the record during a telephone conference call hearing.

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- (1) An appeal may be withdrawn at any time prior to the issuance of a decision upon the request of the appellant and with the approval of the presiding officer to whom the case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 administrative law judge has reviewed the records and files herein and concludes that the appealing party's request to withdraw the appeal should be approved.

DECISION:

The employer's request to withdraw the appeal is approved. The Agency representative's July 26, 2011, reference 01 decision, which allowed benefits based on a temporary layoff, provided the claimant is otherwise eligible, shall remain effect.

This case is remanded to the Claims Division for determination of the vacation pay issue.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/kjw