

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**GERALD W DERNER**  
Claimant

**APPEAL NO: 15A-UI-03713-DT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**ADVANCED COMPONENT**  
Employer

**OC: 02/08/15**  
**Claimant: Appellant (6)**

871 IAC 26.8(1) - Withdrawal of Appeal

**STATEMENT OF THE CASE:**

An appeal was filed from a representative's decision dated March 17, 2015 (reference 02). A hearing was scheduled for April 19, 2015. Prior to the hearing being held, the appellant requested the appeal be withdrawn. Therefore, there is no need for a hearing. 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 by Gerald W. Derner (claimant), the appealing party, to withdraw the appeal. The representative's decision had concluded he was not qualified to have his claim for unemployment insurance benefits recalculated as due to a business closure. The claimant now understands that the decision did not affect his eligibility to the regular 26 weeks of benefits, and he is not seeking the additional 13 weeks of benefits provided for business closure.

**REASONING AND CONCLUSIONS OF LAW:**

Normally, the maximum total amount of benefits payable to an eligible individual during a benefit year is the lesser of twenty-six times the individual's weekly benefit amount or the total of the claimant's base period wage credits. However, under usual circumstances, if the claimant is laid off due to the claimant's employer going out of business at the factory, establishment, or other premises at which the claimant was last employed, the maximum benefits payable are extended to the lesser of thirty-nine times the claimant weekly benefit amount or the total of the claimant's wage credits. Iowa Code §96.3-5.

Rule 871 IAC 24.29(2) provides:

(2) Going out of business means any factory, establishment, or other premises of an employer which closes its door and ceases to function as a business; however, an

employer is not considered to have gone out of business at the factory, establishment, or other premises in any case in which the employer sells or otherwise transfers the business to another employer, and the successor employer continues to operate the business.

The claimant agrees that while he was laid off, the business was simply sold and continued to operate after the sale. He there is not seeking the additional 13 weeks of business closure benefits.

Rule 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 representative's decision dated March 17, 2015 (reference 02) is affirmed. The request of the appealing party to withdraw the appeal is approved, and there will be no hearing. The decision of the representative shall stand and remain in full force and effect. The claimant is entitled to receive regular unemployment insurance benefits, provided he is otherwise eligible, but is not entitled to the additional 13 weeks of benefits due to a business closure.

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Lynette A. F. Donner  
Administrative Law Judge

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Decision Dated and Mailed

ld/pjs