

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

PATRICK J MUMM
Claimant

APPEAL NO. 11A-UI-06165-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 01/31/10
Claimant: Appellant (6)**

871 IAC 26.8(1) - Withdrawal of Appeal

STATEMENT OF THE CASE:

Patrick Mumm had filed an appeal from the May 3, 2011, reference 04 decision that said he was overpaid \$301.00 for the week ending February 5, 2011. The Appeals Section erroneously treated Mr. Mumm's appeal from the overpayment decision as also an appeal from the April 29, 2011, reference 03 decision that denied emergency unemployment insurance benefits on the Iowa claim effective January 31, 2011 based on an Agency conclusion that because Mr. Mumm was monetarily eligible for regular benefits on a Nebraska claim effective January 30, 2011. A hearing was scheduled for May 25, 2011. Prior to the hearing being held, Mr. Mumm indicated that he was not challenging the decision that denied benefits for the week ending February 5, 2011.

FINDINGS OF FACT:

At the scheduled start of the hearing on May 25, 2011, claimant/appellant Patrick Mumm clarified that his appeal was intended to be only an appeal regarding the *amount* of the overpayment for the week ending February 5, 2011 referenced May 3, 2011, reference 04 overpayment decision and that he was not challenging the April 29, 2011, reference 03 decision that denied emergency unemployment insurance benefits on the Iowa claim effective January 31, 2011 based on an Agency conclusion that because Mr. Mumm was monetarily eligible for regular benefits on a Nebraska claim effective January 30, 2011. Mr. Mumm's appeal regarding the overpayment amount is addressed in Appeal Number 11A-UI-06166-JTT.

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- (1) An appeal may be withdrawn at any time prior to the issuance of a decision upon the request of the appellant and with the approval of the presiding officer to whom the case is assigned.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concludes, based on the claimant/appellant's intention and filing his appeal, that the present appeal should be deemed withdrawn. Mr. Mumm's appeal regarding the overpayment amount is addressed in Appeal Number 11A-UI-06166-JTT.

DECISION:

The erroneously docketed appeal from the April 29, 2011, reference 03 decision is deemed withdrawn. The Agency representative's decision shall remain effect. The claimant's appeal regarding the overpayment amount is addressed in Appeal Number 11A-UI-06166-JTT.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/pjs