

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

MARILYN K SCALLY Claimant MARRIOTT HOTEL SERVICES INC Employer	<div>68-0157 (9-06) - 3091078 - EI</div> <div>APPEAL NO: 13A-UI-06052-DT ADMINISTRATIVE LAW JUDGE DECISION</div> <div>OC: 12/16/12 Claimant: Appellant (6)</div>
---	---

871 IAC 26.8(1) - Withdrawal of Appeal

STATEMENT OF THE CASE:

An appeal was filed from a representative's decision dated May 10, 2013 (reference 01). A hearing was scheduled for June 27, 2013. Prior to the hearing being held, the appellant requested the appeal be withdrawn.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 Marilyn K. Scally (claimant), the appealing party, to withdraw the appeal. The reason for the request is that the claimant has learned that the appeal issue is moot.

The claimant established an unemployment insurance benefit year effective December 16, 2012. Her weekly benefit amount was calculated to be \$396.00, and her earnings limit for partial benefit eligibility as \$411.00. There were some weeks between December 16, 2012 and March 2, 2013 where her weekly earnings were less than \$411.00, and she received partial benefits for those weeks. From March 3 through April 27 there were no weeks for which she earned less than \$411.00. She ceased filing weekly continued claims as of the week ending April 27.

The claimant understands that if in the future there are weeks in which she believes she qualifies as being partially unemployed and her earnings are less than \$411.00, she may reopen her current claim year by filing an additional claim.

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(1) An appeal may be withdrawn at any time prior to the issuance of a decision upon the request of the appellant and with the approval of the presiding officer to whom the case is assigned.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 request of the appealing party to withdraw the appeal should be approved.

As issues regarding a claimant's availability for work are determinable on a week to week basis, should the claimant file an additional claim in the future, her eligibility status will be subject to redetermination at that time.

DECISION:

The decision of the representative dated May 10, 2013 (reference 01) 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 not entitled to receive unemployment insurance benefits as of April 14, 2013 as she was fully employed within the meaning of the law, and not eligible for partial unemployment insurance benefits. At such point as her status changes, she may reopen her claim with an additional claim.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/pjs