

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

HEATHER M LUCKINBILL
Claimant

APPEAL NO. 11A-UI-07724-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

THE NEW HOMESTEAD
Employer

**OC: 05/16/10
Claimant: Appellant (6)**

Iowa Code Section 96.5(2)(a) – Discharge for Misconduct
871 IAC 26.8(1) - Withdrawal of Appeal

STATEMENT OF THE CASE:

The Appeals Section erroneously docketed a claimant appeal from the June 10, 2010, reference 01, decision that disqualified the claimant for unemployment insurance benefits in connection with a May 19, 2010 discharge. The matter was set for hearing on July 8, 2011, and the parties were properly notified by notice mailed on June 20, 2011. The matter was consolidated with the claimant's appeal in 11A-UI-07725-JTT, concerning a separation that occurred on May 11, 2011. At the beginning of the proceedings, the claimant clarified that she had not intended appeal from the June 10, 2010, reference 01, decision.

FINDINGS OF FACT:

Heather Luckinbill clarified at the start of the July 8, 2011 appeal hearing that she had not intended to file an appeal from June 10, 2010, reference 01, decision that disqualified her for benefits in connection with a May 19, 2010 discharge. Ms. Luckinbill had subsequently become employed by the same employer in July 2010 and separated from that new period of employment on May 11, 2011. Ms. Luckinbill only intended to file an appeal from the June 8, 2011, reference 02 decision that denied benefits in connection with a May 11, 2011 separation.

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- (1) An appeal may be withdrawn at any time prior to the issuance of a decision upon the request of the appellant and with the approval of the presiding officer to whom the case is assigned.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 claimant's request to withdraw the appeal is approved. The Agency representative's June 10, 2010, reference 01, decision that denied benefits in connection with the May 19, 2010 separation shall remain effect.

The claimant's appeal from the June 8, 2011, reference 02, decision that denied benefits in connection with a May 11, 2011 separation shall go forward separately in Appeal Number 11A-UI-07725-JTT.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/css