

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JAMES B STEVENS**  
Claimant

**APPEAL NO. 12A-UI-05349-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IDEAL READY-MIX CO INC**  
Employer

**OC: 01/01/12**  
**Claimant: Respondent (6)**

87a IAC 24.1(113)(a) – Temporary Layoff  
871 IAC 26.8(1) – Withdrawal of Appeal

**STATEMENT OF THE CASE:**

The employer filed an appeal from the April 30, 2012, reference 01, decision that allowed benefits effective January 1, 2012 based on an agency conclusion that the claimant was temporarily laid off. A hearing was scheduled for May 30, 2012. Brad Helmerson, Safety Director, appeared on behalf of the employer. Claimant James Stevens did not respond to the hearing notice instructions to provide a telephone number for the hearing and did not participate. Exhibit One was received into evidence. The administrative law judge took official notice of the May 23, 2012, reference 02 decision that denied benefits effective March 22, 2012 based on an agency conclusion that the claimant had refused suitable work. After the hearing began, but before the presentation of the employer's evidence, the employer requested to withdraw the appeal.

**FINDINGS OF FACT:**

The employer filed an appeal from the April 30, 2012, reference 01, decision that allowed benefits effective January 1, 2012 based on an agency conclusion that the claimant was temporarily laid off. As indicated in the appeal letter, the employer's concern about the claimant's benefit eligibility was a concern about the claimant's benefit eligibility effective March 22, 2012. The employer concedes that prior to that date the claimant was on a temporary layoff. The employer's concern about the claimant's benefit eligibility has been addressed and resolved by the May 23, 2012, reference 02 decision that denied benefits effective March 22, 2012 based on an agency conclusion that the claimant had refused suitable work. Based on the entry of that decision, the employer made a recorded, on-the-record request to withdraw the appeal from the April 30, 2012, reference 01 decision. The request to withdraw the appeal came before presentation of the employer's evidence and prior to a decision being entered on the appeal.

**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(1) An appeal may be withdrawn at any time prior to the issuance of a decision upon the request of the appellant and with the approval of the presiding officer to whom the case is assigned.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 April 30, 2012, reference 01, decision that allowed benefits effective January 1, 2012 based on a conclusion that the claimant was on a temporary layoff shall remain in effect.

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James E. Timberland  
Administrative Law Judge

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Decision Dated and Mailed

jet/pjs