

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SHAWN M ALBRIGHT
Claimant

APPEAL NO: 10A-UI-15587-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TOP GRADE INC
Employer

OC: 09/05/10
Claimant: Appellant (6-R)

871 IAC 26.8(1) - Withdrawal of Appeal

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated November 4, 2010, reference 02, that concluded that a decision disqualifying the claimant based on his separation from employment on September 8, 2010, had been made on a prior claim and remained in effect. He requested an in-person hearing. Prior to the hearing being held, the claimant requested the appeal be withdrawn. Official notice is taken of the Agency's records regarding the claimant's unemployment insurance claim. If a party objects to taking official notice of these facts, the objection must be submitted in writing no later than seven days after the date of this decision.

FINDINGS OF FACT:

The claimant filed a new claim for unemployment insurance benefits effective September 5, 2010, and reported Results Customer Solutions LLC (Account 372890) was his employer from March 19, 2007, to September 7, 2010. Wages records show wages reported by Top Grade Inc. (Account 268328) from the first quarter 2008 through the first quarter 2010 and from Results Customer Solutions LLC (Account 372890) from the first quarter 2010 through the third quarter 2010. The records show both accounts are still active and there is no link between the two accounts or any indication of a successorship.

An unemployment decision disqualifying the claimant based his separation from employment on September 8, 2010, from Results Customer Solutions LLC (Account 372890) was issued on October 1, 2010 (reference 01). Even though the records show no link between the two employers, the Agency issued the decision that is being appealed here that a decision was issued disqualifying the claimant based on his separation on September 8, 2010, and it remained in effect.

The claimant appealed the October 1, 2010 (reference 01) decision, and in a decision by an administrative law judge dated December 3, 2010, the claimant was determined qualified to receive unemployment insurance benefits based on his separation on September 8, 2010, from Results Customer Solutions LLC (Account 372890). That decision became final on December 20, 2010. The Agency has issued benefits to the claimant, which in effect amounts a

redetermination of the November 4, 2010 (reference 02) decision on appeal here, since that decision was based on the earlier decision.

In light of all this, a request has been made by the appealing party to withdraw the appeal. The request was submitted orally and was recorded.

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 request of the appealing party to withdraw the appeal should be approved. My conclusion is based on the fact that if the two employers are the same employer, the administrative law judge's decision issued on December 3, 2010, controls this case. If the two employers are different, the claimant separated from Top Grade Inc. (Account 268328) in the first quarter 2010 and would be eligible based on that separation because his wages Results Customer Solutions LLC (Account 372890) would be enough to satisfy any disqualification.

The information in the file raises an issue of whether a successorship occurred. This issue is remanded to the Agency.

DECISION:

The unemployment insurance decision dated November 4, 2010, reference 02, has been effectively redetermined in the claimant's favor. The claimant is qualified to receive unemployment insurance benefits, if he is otherwise eligible. The issue of whether a successorship occurred between Top Grade Inc. (Account 268328) and Results Customer Solutions LLC (Account 372890) is remanded to the Agency.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/kjw