

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ASAPH L WENDA
Claimant

APPEAL 18A-UI-08800-JC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

TEAM STAFFING SOLUTIONS INC
Employer

OC: 07/22/18
Claimant: Appellant (6)

Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Code § 96.5(1)j – Voluntary Quitting – Temporary Employment
Iowa Code Ch. 17A – Iowa Administrative Procedure Act
Iowa Code Ch. 96 – Iowa Employment Security Act
Iowa Admin. Code r. 871-26.8(1) – Withdrawal of Appeal
Iowa Admin. Code r. 871-26.11 – Motions
Iowa Admin. Code r. 871-24.19(3) – Claims Bureau Subsequent Action

STATEMENT OF THE CASE:

The claimant/appellant, Asaph L. Wenda, filed an appeal from the August 10, 2018, (reference 01) unemployment insurance decision that denied benefits based upon separation. Notice of the hearing was mailed to the claimant's last known address of record for a telephone hearing to be held at 3:00 p.m. on September 7, 2018.

Before the hearing date, the claimant received a favorable decision from Iowa Workforce Development, dated August 13, 2018, (reference 03), stating the reference 01 decision was issued in error and declared the reference 01 decision null and void. This decision made the issue on appeal moot.

The administrative law judge would note that the claimant's correct original claim date is June 24, 2018 (See administrative record).

ISSUES:

Should the most recent unemployment insurance decision be affirmed?
Should the appeal be dismissed as moot?

FINDINGS OF FACT:

The pertinent agency documents relating to this claimant show that an unemployment insurance decision dated August 10, 2018, reference 01, determined that he was disqualified from unemployment insurance benefits. The claimant appealed this decision. A hearing for this appeal was scheduled on September 7, 2018 at 3:00 p.m. Before the hearing date, Iowa Workforce Development issued a favorable decision to the claimant dated August 13, 2018. The decision dated August 13, 2018, reference 03, stated that the reference 01 decision issued on August 10, 2018 was issued in error and is now declared null and void.

The most recent favorable decision made the issue he appealed, (based on the decision dated August 10, 2018, reference 01) moot.

REASONING AND CONCLUSIONS OF LAW:

Iowa Admin. Code r. 871-26.8(1) provides:

An appeal may be withdrawn at any time prior to the issuance of a decision upon the request of the appellant and with the approval of an administrative law judge or the manager or chief administrative law judge of the appeals bureau. Requests for withdrawal may be made in writing or orally, provided the oral request is tape-recorded by the presiding officer.

An appeal may be dismissed upon the request of a party or in the agency's discretion when the issue or issues on appeal have been resolved in the appellant's favor.

Generally, courts and administrative tribunals do not decide issues when the underlying controversy is moot. *Rhiner v. State*, 703 N.W.2d 174, 176 (Iowa 2005). "A case is moot if it no longer presents a justiciable controversy because the issues involved are academic or nonexistent." *Iowa Bankers Ass'n v. Iowa Credit Union Dep't*, 335 N.W.2d 439, 442 (Iowa 1983).

The administrative law judge has reviewed the records and files herein and concludes that the request to dismiss the appeal should be approved. The only issue on this appeal is now moot. The most recent decision, dated August 13, 2018, is affirmed.

DECISION:

The department representative's request to dismiss the appeal of the unemployment insurance decision dated August 10, 2018, reference 01, is approved. The decision issued on August 13, 2018, reference 03, is affirmed. The appeal is dismissed as moot. **The hearing for September 7, 2018, is canceled.**

Jennifer L. Beckman
Administrative Law Judge

Decision Dated and Mailed

jlb/scn