

IOWA WORKFORCE DEVELOPMENT  
Unemployment Insurance Appeals Section  
1000 East Grand—Des Moines, Iowa 50319  
DECISION OF THE ADMINISTRATIVE LAW JUDGE  
68-0157 (7-97) – 3091078 - EI

BRIAN A RICKELS  
2417 COUNTY RD D 61  
BERNARD IA 52032

ROBERTSON-CECO CORPORATION  
c/o TALX UC EXPRESS  
PO BOX 283  
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ROBERTSON-CECO CORPORATION  
ATTENTION SHARON  
101 W SOUTH ST  
MONTICELLO IA 52310

Appeal Number: 04A-UI-08971-RT  
OC: 08-01-04 R: 04  
Claimant: Respondent (6)

**This Decision Shall Become Final**, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4<sup>th</sup> Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

871 IAC 26.8(1) - Withdrawal of Appeal

STATEMENT OF THE CASE:

An appeal was filed by TALX UC eXpress, the representative of the employer, Robertson-Ceco Corporation, from a representative's decision dated August 17, 2004, reference 01. A hearing was scheduled for September 13, 2004 at 10:00 a.m. Prior to the hearing being held, the appellant requested the appeal be withdrawn.

FINDINGS OF FACT:

The administrative law judge, having considered the evidence in the record, finds that: A request has been made by the appealing party to withdraw the appeal. The request has been submitted orally and tape-recorded. The employer mistakenly filed the appeal believing that it

would be charged for any unemployment insurance benefits to which the claimant was entitled but the decision from which the employer appealed indicated that the benefits would be charged to the unemployment compensation fund and not the employer's account, which would be the result if the claimant, as the employer alleges, left his employment voluntarily to accept other employment, which he did accept and for which the claimant performed services. Iowa Workforce records confirm that this is what happened.

#### 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.

#### DECISION:

The decision of the representative dated August 17, 2004, reference 01, is affirmed. The request of the appealing party to withdraw the appeal is approved, and the decision of the representative shall stand and remain in full force and effect. The claimant is entitled to receive unemployment insurance benefits, provided eligibility requirements have been satisfied. Any unemployment insurance benefits to which the claimant may be entitled will not be charged to the account of the employer but shall be charged to the unemployment compensation fund.

gkr/b