

**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**

**SHIRLEY A FETZER
717 W BROAD ST
NORTH ENGLISH IA 52316**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**Appeal Number: 05A-UI-00372-DWT
OC: 11/28/04 R: 03
Claimant: Appellant (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, 4th 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 are 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.

(Administrative Law Judge)

(Decision Dated & Mailed)

871IAC26.8(1) - Withdrawal of Appeal

STATEMENT OF THE CASE:

The Appeals Section received a January 10, 2005 letter from Shirley A. Fetzer (claimant). The Appeals Section incorrectly understood the claimant did not agree with a representative's January 4, 2005 decision (reference 01) that concluded the claimant was not eligible to receive unemployment insurance benefits as of January 2, 2005 because she was back at work and was no longer considered unemployed. A hearing was scheduled on January 26, 2005. On January 20, 2005, the claimant called the Appeals Section and verified she was not appealing the January 4, 2005 determination and did not want a hearing. Based on the claimant's withdrawal request and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

FINDINGS OF FACT:

On January 20, 2005, the claimant verified she had not appealed a representative's January 4, 2005 decision. The claimant requested that this matter be resolved by withdrawing the appeal. The claimant did not disagree with the January 4, 2005 decision. The January 20, 2005 request to withdraw the hearing was tape-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 claimant's request to withdraw an appeal that she never intended is approved.

DECISION:

The representative's January 4, 2005 decision (reference 01) is affirmed. The claimant's request to withdraw the appeal and cancel the hearing is approved. This means as of January 2, 2005, the claimant is not eligible to receive unemployment insurance benefits because she is working too many hours and is not considered unemployed. If the claimant's employment changes, she must reopen her claim and establish her eligibility to receive unemployment insurance benefits.

dlw/sc