

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TERESA M WUTZKE
Claimant

APPEAL NO. 11A-EUCU-00344-VST

**ADMINISTRATIVE LAW JUDGE
DECISION**

TEMP ASSOCIATES - MARSHALLTOWN
Employer

**OC: 12/26/10
Claimant: Respondent (6)**

871 IAC 26.8(1) – Withdrawal of Appeal

STATEMENT OF THE CASE:

The employer filed an appeal from the March 23, 2011, reference 02, decision that held that the claimant was eligible for unemployment insurance benefits. A telephone hearing was scheduled for April 28, 2011. The claimant participated in the hearing. The employer participated by Nancy Mullaney, Manager.

Prior to the taking of testimony, the administrative law judge explained that the claimant was presently receiving training extension benefits and that she had been disqualified from receiving unemployment insurance benefits for a second benefit year since she had not earned \$250.00 in wages for insured work. The claimant confirmed that this was her understanding of the situation as well. Ms. Mullaney stated that the employer did not protest the original separation on December 23, 2009. This employer's account has not been charged for regular unemployment insurance benefits the claimant received based on her December 27, 2009, claim. The appeal was filed because the employer was concerned that the claimant would receive unemployment insurance benefits that would be charged to its account. Since the claimant was a full time student, the claimant would not be eligible to obtain work from the employer.

The administrative law judge explained that the representative's decision addressed only the separation issue and did not consider whether the claimant was able and available for work. Ms. Mullaney stated that given this additional information, the employer would withdraw its appeal.

ISSUE:

Whether the appellant should be permitted to withdraw its appeal.

FINDINGS OF FACT:

The administrative law judge, having reviewed the record, makes the following findings of fact: On April 28, 2011, the employer made an oral request to withdraw its appeal filed on March 31, 2011. The request was recorded by digital audiotape.

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(1) An appeal may be withdrawn at any time prior to the issuance of a decision upon the request of the appellant and with the approval of the presiding officer to whom the case is assigned.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 request of the appealing party to withdraw the appeal is approved. The Agency representative's decision dated March 23, 2011, reference 02, shall stand and remain in full force and effect.

Vicki L. Seeck
Administrative Law Judge

Decision Dated and Mailed

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