

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JAMES A PETRICK**  
Claimant

**APPEAL NO: 10A-UI-04428-DT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**A-1 DISPOSAL SERVICE INC**  
Employer

**OC: 02/14/10**  
**Claimant: Respondent (6)**

871 IAC 26.8(1) - Withdrawal of Appeal

**STATEMENT OF THE CASE:**

An appeal was filed from a representative's decision dated March 11, 2010 (reference 01). A hearing was scheduled for May 5, 2010. At the time for the hearing but in lieu of the hearing being held, the appellant requested the appeal be withdrawn. Therefore, there is no need for a full hearing. Based on a review of the administrative file and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

Should the appellant's request to withdraw the appeal be granted?

**FINDINGS OF FACT:**

A request has been made by the attorney for A-1 Disposal Service, Inc. (employer), the appealing party, to withdraw the appeal. The reason for the request is that the employer's concern has been addressed. The employer was not in fact challenging or appealing the actual representative's decision that the separation was not disqualifying, but rather was seeking to challenge the claimant's eligibility for further benefits as of the benefit week beginning March 7, 2010, on the basis that the claimant was no longer unemployed and therefore not able and available for work as necessary to be eligible for unemployment insurance benefits. The employer has now been informed that the last week the claimant has received any unemployment insurance benefits is the week ending March 6, 2010. Therefore, the employer's concern is moot.

**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- (1) An appeal may be withdrawn at any time prior to the issuance of a decision upon the request of the appellant and with the approval of the presiding officer to whom the case is assigned.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 request of the appealing party to withdraw the appeal should be approved.

**DECISION:**

The decision of the representative dated March 11, 2010 (reference 01) is affirmed. The request of the appealing party to withdraw the appeal is approved, and there will be no hearing. The decision of the representative shall stand and remain in full force and effect. The claimant is entitled to receive unemployment insurance benefits as a result of the separation from employment, provided he is otherwise eligible.

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Lynette A. F. Donner  
Administrative Law Judge

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Decision Dated and Mailed

ld/pjs