

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JOHNERIC SMITH**  
Claimant

**APPEAL NO. 09A-UI-01749-AT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**WAL-MART STORES INC**  
Employer

**OC: 11/09/08 R: 02**  
**Claimant: Respondent (6)**

871 IAC 26.8(1) – Withdrawal of Appeal  
Section 96.5-2-a – Discharge for Misconduct

**STATEMENT OF THE CASE:**

The employer filed a timely appeal from an unemployment insurance decision dated January 23, 2009, reference 01, that allowed benefits to the claimant. Before a hearing could be scheduled in the matter, the employer requested that its appeal be withdrawn.

**ISSUE:**

Should the request to withdraw the appeal be granted?

**FINDINGS OF FACT:**

Having examined all matters of record, the administrative law judge finds: The employer, the appellant in this matter, has requested that the appeal be withdrawn.

**REASONING AND CONCLUSIONS OF LAW:**

A rule found at 871 IAC 26.8(1) allows the administrative law judge to grant an appellant's request for the withdrawal of its appeal. A review of all matters of record persuades the administrative law judge that it is appropriate to allow the withdrawal of this appeal.

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(1) An appeal may be withdrawn at any time prior to the issuance of a decision upon the request of the appellant and with the approval of the presiding officer to whom the case is assigned.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

**DECISION:**

The unemployment insurance decision dated January 23, 2009, reference 01, remains in effect. The claimant is entitled to receive unemployment insurance benefits, provided he is otherwise eligible.

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Dan Anderson  
Administrative Law Judge

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Decision Dated and Mailed

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