

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**SEAN A ROBY**  
Claimant

**APPEAL NO: 12A-UI-01361-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**EXPRESS SERVICES INC**  
Employer

**OC: 12/25/11  
Claimant: Respondent (6)**

871 IAC 26.8(1) - Withdrawal of Appeal

**PROCEDURAL STATEMENT OF THE CASE:**

The employer appealed a representative's February 3, 2012 determination (reference 01) that held the claimant qualified to receive benefits as of December 25, 2011, because he was on a short-term layoff. A hearing was scheduled on March 1, 2011. The claimant responded to the hearing notice, but was not available when he was called for the hearing. Jim Cole appeared on the employer's behalf. After the employer learned the claimant had only filed a claim for one week, the week ending December 31, 2011, the employer withdrew its appeal.

After the hearing had been closed, the claimant called the Appeals Section. He was informed about the employer's withdrawal.

Based on the employer's withdrawal request, the administrative record, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**FINDINGS OF FACT:**

The employer withdrew its appeal from the February 3, 2012 determination after learning the claimant had only filed a claim for one week, the week ending December 31, 2011. The employer agreed the claimant had been laid off from his job assignment this week and should be eligible to receive benefits for this week. The claimant returned to work on January 3, 2012. The employer's withdrawal request 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- (1) An appeal may be withdrawn at any time prior to the issuance of a decision upon the request of the appellant and with the approval of the presiding officer to whom the case is assigned.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 employer's request to withdraw its appeal is approved.

If the claimant reopens his claim, his January 6, 2012 resignation may at that time be relevant when deciding if the claimant is qualified to receive benefits if or when he reopens his claim.

**DECISION:**

The representative's February 3, 2012 determination (reference 01) is affirmed. The employer's withdrawal request is approved. The claimant is eligible to receive benefits for the week ending December 31, 2011, because he was on a short-term layoff.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/pjs