

**BEFORE THE
EMPLOYMENT APPEAL BOARD
Lucas State Office Building
Fourth floor
Des Moines, Iowa 50319**

JODI KURIMSKI

Claimant

:
:
:
:
:
:
:
:
:
:
:
:

HEARING NUMBER: 21B-UI-16758

**EMPLOYMENT APPEAL BOARD
DECISION**

NOTICE

THIS DECISION BECOMES FINAL unless (1) a **request for a REHEARING** is filed with the Employment Appeal Board within **20 days** of the date of the Board's decision or, (2) a **PETITION TO DISTRICT COURT IS FILED WITHIN 30 days** of the date of the Board's decision.

A **REHEARING REQUEST** shall state the specific grounds and relief sought. If the rehearing request is denied, a petition may be filed in **DISTRICT COURT** within **30 days** of the date of the denial.

SECTION: 96.3-7, 26.8-1

DECISION

The Claimant appealed this case to the Employment Appeal Board. The members of the Employment Appeal Board reviewed the entire record. The Appeal Board finds it cannot affirm the administrative law judge's decision. The Employment Appeal Board **REVERSES & REMANDS** as set forth below.

FINDINGS OF FACT:

A hearing in the above matter was scheduled for September 9, 2021 in which the issue to be determined was whether the Claimant owed a \$736.00 regular unemployment overpayment. Prior to the hearing, however, the Claimant submitted a letter dated August 20, 2021 asking questions about the appeals procedure. In her letter, she withdrew her questions, but not her actual appeal. The administrative law judge mistook her withdrawal of questions as a withdrawal of her appeal, and cancelled the hearing.

The administrative law judge's decision was issued August 24, 2021 approving what seemed to be a withdrawal request. The administrative law judge's decision has been appealed to the Employment Appeal Board.

REASONING AND CONCLUSIONS OF LAW:

486 IAC 3.1(15) provides:

Withdrawal of appeal. Any appeal may be withdrawn by the appellant, by written request, anytime before a decision is issued by the appeal board. If a request is made, the appeal shall be dismissed. ***An appeal so dismissed may be reinstated by the appeal board*** if the appellant files a written request to reinstate and shows that the request for withdrawal resulted from misinformation given by the workforce development department, unemployment insurance division, or ***for other good cause shown, as determined by the appeal board.*** A request for reinstatement shall be made within 60 days after the mailing of the decision dismissing the appeal or, in the event of fraud, within 60 days after discovery of the fraud.

The Claimant has established she did not intend to withdraw her appeal, and forego a hearing on the merits of her claim. Rather, she simply sought clarification of the appeals process in which she experienced difficulty in resolving based on her many conversations with Iowa Workforce Development. For this reason, the Board shall reinstate the Claimant's appeal and remand this matter for a hearing before an administrative law judge so that the Claimant may avail herself of her due process right.

DECISION:

The administrative law judge's decision dated August 24, 2021 is **REVERSED & REMANDED**; however, it is not vacated and remains in force unless and until the Department makes a differing determination pursuant to this decision. This matter is remanded to an administrative law judge in the Workforce Development Center, Appeals Section. The administrative law judge shall conduct a hearing following due notice. After the hearing, the administrative law judge shall issue a decision which provides the parties appeal rights.

James M. Strohman

Ashley R. Koopmans

Myron R. Linn