

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

DEVIN ALISHA A LAGOW
Claimant

APPEAL NO. 20A-UI-00954-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

BARTELS LUTHERAN HOME INC
Employer

OC: 01/12/20
Claimant: Appellant (6)

Iowa Code Section 96.5(1) – Voluntary Quit
Iowa Administrative Code rule 871-26.8(1) - Withdrawal of Appeal

STATEMENT OF THE CASE:

Devin Lagow filed a timely appeal from the January 27, 2020, reference 01, decision that disqualified her for benefits and that relieved the employer's account of liability for benefits, based on the deputy's conclusion that Ms. Lagow voluntarily quit on January 13, 2020 without good cause attributable to the employer. A hearing was scheduled for 9:00 a.m. on February 18, 2020 and the parties were appropriately notified of the hearing. On February 18, 2020, the appellant, Ms. Lagow, provided notice that she does not wish to participate in the hearing.

FINDINGS OF FACT:

Claimant Devin Lagow is the appellant in this matter. Devin Lagow filed a timely appeal from the January 27, 2020, reference 01, decision that disqualified her for benefits and that relieved the employer's account of liability for benefits, based on the deputy's conclusion that Ms. Lagow voluntarily quit on January 13, 2020 without good cause attributable to the employer. On February 5, 2020, the Appeals Bureau mailed a hearing notice to Ms. Lagow regarding the appeal hearing scheduled for 9:00 a.m. on February 18, 2020.

On the morning of February 13, 2019, the employer submitted its 43-page packet of proposed exhibits and advised the Appeals Bureau staff that the employer had sent the same exhibits to Ms. Lagow.

On February 17, 2020, the Appeals Bureau received a reschedule request from Ms. Lagow. The request is dated February 12, 2020 and is postmarked February 13, 2020. In the request, Ms. Lagow stated as follows:

I need to reschedule my hearing due to new on the job training. The training is from 8am to 5pm on the following days Monday, Tuesday and Thursday the week of February 17th 2020. I am unavailable these dates.

Based on the timely request to reschedule and the good cause stated in the reschedule request, the administrative law judge was willing to reschedule the appeal hearing. In light of

Ms. Lagow's reference to a new employment as the basis not being available for an appeal hearing on Tuesday, February 18, 2020, the administrative law judge desired communication with Ms. Lagow to provide her an opportunity to assist in selecting the reschedule date and time. The administrative law judge had multiple available hearing slots on Wednesday, February 19, 2020. According to Ms. Lagow's reschedule request, Ms. Lagow would not have a scheduling conflict with a February 19 hearing. Ms. Lagow did not register a telephone number for the hearing and did not include a telephone number in her appeal letter or her reschedule request. At 5:09 p.m. on February 17, 2020, the administrative law judge called the telephone number Ms. Lagow had provided to Iowa Workforce Development when she established her claim for benefits. The administrative law judge stayed late and waited to call Ms. Lagow after her reschedule request letter indicated she would be done with work for the day. The administrative law judge left a voicemail message for Ms. Lagow in which the administrative law judge acknowledged Ms. Lagow's reschedule request and requested a return phone call at Ms. Lagow's earliest convenience to discuss the request. The administrative law judge indicated in his message that Appeals Bureau staff would be available to take Ms. Lagow's call before the 8:00 a.m. start of Ms. Lagow's work day. On February 18, 2020, the administrative law judge arrived for work early so that he could be available to receive Ms. Lagow's phone call. The administrative law judge notified the Appeals Bureau administrative assistant at 7:21 a.m. that he would be available to take Ms. Lagow's phone call. Ms. Lagow did not call.

At 8:28 a.m. on February 18, 2020, the administrative law judge contacted employer representative Amber McLey, Human Resources Manager, at the telephone number the employer registered for the hearing. The administrative law judge had a two-fold purpose in calling the employer. The employer had registered four participants in the appeal hearing. One purpose in calling the employer was to let the employer know that the administrative law judge was granting Ms. Lagow's request to reschedule the appeal hearing. The administrative law judge's second purpose in contacting the employer was to see whether the employer had a different telephone for Ms. Lagow than the number the administrative law judge had used on February 17. The employer confirmed the employer had the same number for Ms. Lagow in its records that the administrative law judge had used on February 17, 2020. The administrative law judge had the employer stay on the line while the administrative law judge made an additional attempt to contact Ms. Lagow, or at least leave a message for Ms. Lagow, regarding the granting of her reschedule request and a request for a return phone call to discuss a new date and time for the appeal hearing.

At 10:27 a.m. on February 18, 2020, Ms. Lagow sent an email message to the Appeals Bureau. Ms. Lagow wrote: "I am writing to inform the appeals bureau that I do not wish to participate in the hearing. I sent my statements by mail. That's everything. Thank you!"

REASONING AND CONCLUSIONS OF LAW:

Iowa Admin. Code r. 871-26.8(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 an administrative law judge or the manager or chief administrative law judge of the appeals bureau. Requests for withdrawal may be made in writing or orally, provided the oral request is tape-recorded by the presiding officer.

An appeal may be dismissed upon the request of a party or in the agency's discretion when the issue or issues on appeal have been resolved in the appellant's favor.

The administrative law judge interprets the claimant/appellant's notice that she does not wish to participate in the appeal hearing she requested as a request to withdraw the appeal. The administrative law judge has reviewed the administrative file and concludes the claimant/appellant's request to withdraw the appeal should be approved.

DECISION:

The claimant's request to withdraw her appeal is approved. The January 27, 2020, reference 01, decision that disqualified the claimant for benefits and that relieved the employer's account of liability for benefits, based on the deputy's conclusion that the claimant voluntarily quit on January 13, 2020 without good cause attributable to the employer, remains in effect. The appeal hearing that would have been rescheduled based on the claimant's timely and good cause request is cancelled.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/rvs