

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MARK D WALTHART**  
Claimant

**APPEAL NO: 10A-EUCU-00432-DT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**EIP MANUFACTURING LLC**  
Employer

**OC: 06/22/08**

**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 May 5, 2010 (reference 01). A hearing was scheduled for July 1, 2010. Prior to the hearing being held, the appellant requested the appeal be withdrawn. Therefore, there is no need for a 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 EIP Manufacturing, L.L.C. (employer), the appealing party, to withdraw the appeal. The reason for the request is that the employer now realizes that its concern had already been addressed and resolved in its favor, and that it filed its appeal due to an erroneous reading of the representative's decision. The representative's decision had concluded that the claimant was not eligible to receive unemployment insurance benefits from the date of his separation on April 23, 2009 through May 2, 2009, due to the receipt of a payout of accrued vacation pay in the amount of \$709.80, attributable to the next five working days following April 23, 2009; as a result, there was a sufficient amount of vacation/wage attributable to that period that the claimant was not eligible to receive unemployment insurance benefits until after the week ending May 2, 2009. This is the result the employer had sought, and it had not understood that this was in fact the result reached in the representative's decision. The claimant did not appeal the representative's decision.

**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- (1) An appeal may be withdrawn at any time prior to the issuance of a decision upon the request of the appellant and with the approval of the presiding officer to whom the case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 May 5, 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 was not entitled to receive unemployment insurance benefits through May 2, 2009 due to the receipt of vacation pay attributable to that period; after May 2, 2009, he was qualified to receive unemployment insurance benefits, provided he is otherwise eligible.

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Lynette A. F. Donner  
Administrative Law Judge

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Decision Dated and Mailed

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