

IOWA DEPARTMENT OF INSPECTIONS AND APPEALS
Division of Administrative Hearings
Lucas State Office Building
Des Moines, Iowa 50319

DECISION OF THE ADMINISTRATIVE LAW JUDGE

DAVID MATHEIS
1724 HUNTSMAN DRIVE
AIKEN SC 29803-5240

IOWA WORKFORCE DEVELOPMENT
INVESTIGATION AND RECOVERY
1000 EAST GRAND AVENUE
DES MOINES IA 50319-0209

DAN ANDERSON, IWD

Appeal Number: 07-IWDUI-176
OC 02/11/07
Claimant: Appellant (6)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed Notice of Appeal, directly to the **Employment Appeal Board, 4TH Floor Lucas Building, Des Moines, Iowa 50319.**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to the department. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

December 28 , 2007

(Decision Dated & Mailed)

871IAC26.8(1) - Withdrawal of Appeal

STATEMENT OF THE CASE:

The claimant appealed a representative's decision dated December 10, 2007, reference 04 that held he was overpaid benefits \$2,870.

A telephone hearing was scheduled for December 26, 2007 that involved a separate issue. Prior to the hearing being held, the claimant requested the appeal be withdrawn, as to the overpayment.

FINDINGS OF FACT:

The administrative law judge, having considered the evidence in the record, finds that: A request has been made by the appealing party to withdraw the appeal. The request has been submitted orally which has been recorded. The claimant intended to appeal only the administrative penalty disqualification 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(1) An appeal may be withdrawn at any time prior to the issuance of a decision upon the request of the appellant and with the approval of the administrative law judge to whom the case is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 administrative law judge.

The administrative law judge has reviewed the records and files herein and concludes that the request of the appealing party to withdraw the appeal should be approved.

DECISION:

The decision of Iowa Workforce Development dated December 10, 2007, reference 04, is **AFFIRMED**. The request of the appealing party to withdraw the appeal is approved, and the decision of the representative shall stand and remain in full force and effect. The claimant is overpaid benefits \$2,870 due to misrepresentation.

rls