

**IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI**

**BOBBI J ACKERSON
703 MAGNOLIA PKWY
WATERLOO IA 50701**

**L A LEASING INC
SEDONA STAFFING
612 VALLEY DR
MOLINE IL 61265**

**Appeal Number: 04A-UI-12522-DWT
OC: 07/04/04 R: 03
Claimant: Respondent (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 written 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 are 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 Workforce Development. 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)

(Decision Dated & Mailed)

871 IAC 26.8(1) - Withdrawal of Appeal

STATEMENT OF THE CASE:

Sedona Staffing (employer) appealed a representative's November 12, 2004 decision (reference 06) that concluded Bobbi J. Ackerson (claimant) was eligible to receive unemployment insurance benefits even though she did not accept an offer of work from the employer on November 4, 2004. The Appeals Section incorrectly set up a hearing on a decision that had been issued on November 17 (reference 04). A hearing was scheduled on December 13, 2004. The claimant participated in the hearing. Colleen McGuinty and Connie Christian appeared on the employer's behalf. At the beginning of the hearing, the employer verified that the employer did not appeal the November 17, 2004 (reference 04) decision. The employer withdrew its appeal with respect to the reference 06 decision because the issue the employer had appealed was addressed and resolved in a November 12 decision (reference 07) that the employer had not received. Based on the employer's withdrawal, 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 appealed reference 06 decision because this decision did not address whether the claimant was able to and available for work. Reference 06 held the claimant qualified to receive benefits because she declined an offer of work because of her physical limitations. On December 13, 2004, the employer learned for the first time that another decision (reference 07) held the claimant was not eligible to receive benefits because she was unable to work as of October 31, 2004. The employer then withdrew its appeal because the issue the employer had appealed had been resolved by the reference 07 decision. This discussion 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.

DECISION:

The November 12, 2004 decision (reference 06) is affirmed because the decision in reference 07 held the claimant ineligible to receive unemployment insurance benefits as of October 31, 2004. The employer's request to withdraw its appeal from reference 06 is approved. This means the claimant is not disqualified from receiving benefits for declining the employer's November 4, 2004 offer of work, but the claimant is not eligible to receive unemployment insurance benefits as of October 31, 2004 because she is not able to or available for work as of this date.

dlw/tjc