

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MIGUEL R LOPEZ

Claimant

APPEAL NO: 12A-UI-02496-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

HARSCO CORPORATION

Employer

OC: 01/22/12

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 March 5, 2012 (reference 02). A hearing was scheduled for March 28, 2012. At the time for the hearing, but in lieu of the hearing being held, the appellant requested the appeal be withdrawn.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 Harsco Corporation (employer), the appealing party, to withdraw the appeal. The request was submitted because the employer does not actually disagree with the outcome of the representative's decision. The representative's decision concluded that the claimant had tendered his resignation on January 18 for reasons not attributable to the employer effective February 1, 2012 and he was not eligible for unemployment insurance benefits as of the intended effective date of his quit, but that when the claimant tendered his resignation, the employer then discharged the claimant, and so concluded that the claimant was eligible to receive unemployment insurance benefits only for the one benefit week ending January 28, 2012, before the intended effective date of his quit.

The claimant did not appeal the decision as to his ineligibility for benefits after February 1; the employer's third-party representative appealed the decision on behalf of the employer, citing as grounds that "the claimant quit for personal reasons," which is consistent with the conclusion of the representative's decision as to the claimant's eligibility after February 1. The employer itself does not disagree that the claimant should be considered eligible for the one benefit week ending January 28, 2012, before the intended effective date of his quit.

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(1) An appeal may be withdrawn at any time prior to the issuance of a decision upon the request of the appellant and with the approval of the presiding officer to whom the case is assigned.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 representative's decision dated March 5, 2012 (reference 02) 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 is entitled to receive unemployment insurance benefits for the benefit week ending January 28, 2012, provided he is otherwise eligible, but as of February 1, 2012 benefits are withheld until such time as the claimant has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided the claimant is then otherwise eligible.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/kjw