

**BEFORE THE
EMPLOYMENT APPEAL BOARD
Lucas State Office Building, 4TH Floor
Des Moines, Iowa 50319
eab.iowa.gov**

TREVOR L FREIBURGER

Claimant

and

**TRI-STATE CONCRETE
CONSTRUCTION**

Employer

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HEARING NUMBER: 22B-UI-01037

**EMPLOYMENT APPEAL BOARD
DECISION**

SECTION: 10A.601 Employment Appeal Board Review

D E C I S I O N

FINDINGS OF FACT:

A hearing in the above matter was scheduled for February 2, 2022 in which the issues to be determined were whether the claimant was laid off; discharged for misconduct; or whether the claimant voluntarily left for good cause attributable to the employer.

Prior to the hearing, the Claimant requested that Claimant's appeal be withdrawn. This request was based on a misunderstanding between Claimant and Iowa Workforce based on the possible filing of multiple appeals on the same case. The administrative law judge's decision was issued February 2, 2022, which, in essence, affirmed the claims representative's decision that denied benefits, and approved the Claimant's request to withdraw the appeal. The administrative law judge's decision has been appealed to the Employment Appeal Board.

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(1) An appeal may be withdrawn at any time prior to the issuance of a decision upon the request of the appellant and with the approval of the presiding officer to whom the case is assigned.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 record shows that Claimant did not intend to withdraw the entire cases, but was only trying to clean up what appeared to be multiple appeals on the same case. There was no intent to withdraw the appeal and leave the Benefits Bureau decision unchallenged.

DECISION:

The administrative law judge's decision dated February 22, 2022 is **REVERSED and REMANDED**. Although the finding of withdrawal is reversed, the claims representative decision is not vacated at this time, and remains in force unless and until the Administrative Law Judge enters a contrary order. This matter is remanded to an administrative law judge in the Workforce Development Center, Appeals Bureau. The administrative law judge shall conduct a hearing following due notice. After the hearing, the administrative law judge shall issue a decision which provides the parties appeal rights. The Employment Appeal Board concludes that the claimant did not withdraw the appeal to the Administrative Law Judge.

James M. Strohman

Ashley R. Koopmans

Myron R. Linn

RRA/fnv