

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MAYRA A NUNEZ
Claimant

APPEAL NO: 12A-UI-11877-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

EXPRESS SERVICES INC
Employer

OC: 08/26/12
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 September 26, 2012 (reference 01). A hearing was scheduled for October 29, 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 At the time for the hearing but in lieu of the hearing being held, the appellant requested the appeal be withdrawn.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 Express Services, Inc. (employer), the appealing party, to withdraw the appeal. The appeal was set up to consider issues related to an August 26, 2012 separation from employment which was classified by the Claims representative as a layoff for lack of work. The employer's actual reason for filing its appeal was that it wished to raise issues related to subsequent refusals of offers of work, an issue not included on the hearing notice for this case, but an issue which has already been separately considered by the Claims Section; two decisions were issued on October 10, 2012, reference 02 and reference 03, which both disqualified the claimant from receiving benefits after a September 7, 2012 and September 16, 2012 refusal of work, respectively. The claimant has not made an appeal of either of these determinations. As the actual issues of concern to the employer have already been addressed in these other two representative's decisions, the employer determined that its appeal of the separation decision was moot and should be withdrawn.

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- (1) An appeal may be withdrawn at any time prior to the issuance of a decision upon the request of the appellant and with the approval of the presiding officer to whom the case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 September 26, 2012 (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 would be entitled to receive unemployment insurance benefits after the separation, provided she was otherwise eligible. Agency records indicate that as of September 7, 2012 the claimant is no longer otherwise eligible.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/CSS