

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**TERRI M CLAUSEN**  
Claimant

**APPEAL NO: 13A-UI-10856-DT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CRYSTAL CLEAN LLC**  
Employer

**OC: 08/18/13**

**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 19, 2013 (reference 01). A hearing was scheduled for October 21, 2013. On the day of the hearing but after the time for the hearing and in lieu of the hearing being held, the appellant requested the appeal be withdrawn.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 Crystal Clean, L.L.C. (employer), the appealing party, to withdraw the appeal. The request is submitted because the employer has learned that despite the representative's decision indicating that the claimant was legally entitled to receive partial unemployment insurance benefits in connection with her continuing employment with the employer, the claimant has not in fact been mathematically eligible to receive any benefits. As determined by her base period wage credits, the claimant's weekly benefit amount is \$102.00 per week, and her resulting earnings allowance is therefore \$117.00. For the weeks the claimant did file weekly continued claims, her earnings were well in excess of \$117.00. Therefore, the question as to whether she was working all hours available to her during those weeks is moot. Should there be a change in the circumstances between the claimant and the employer, the claimant would need to reactivate her claim with an additional claim, and her status as being able and available for work on her same hours and wages would be subject to reexamination at that time.

**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(1) An appeal may be withdrawn at any time prior to the issuance of a decision upon the request of the appellant and with the approval of the presiding officer to whom the case is assigned.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 19, 2013 (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 is legally entitled to receive unemployment insurance benefits, provided she is otherwise eligible, which she was not for the weeks in which she filed weekly continued claims.

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Lynette A. F. Donner  
Administrative Law Judge

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Decision Dated and Mailed

ld/css