

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RHONDA L SMITH
Claimant

APPEAL NO. 10A-UI-04021-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

LABOR READY MIDWEST INC
Employer

OC: 08/17/07
Claimant: Respondent (6)

871 IAC 26.8(1) - Dismissal of Appeal

STATEMENT OF THE CASE:

The employer appealed from a representative's decision dated March 2, 2010, reference 05, that amends reference 04 and allows claimant benefits by reason of her employment separation on September 5, 2009. A telephone hearing was held on April 6, 2010. The claimant did not participate. Rob Sawyer, CSR, participated for the employer. Employer Exhibits 1-6 was received as evidence.

ISSUE:

The issue is whether the appeal should be dismissed.

FINDINGS OF FACT:

The administrative law judge, having considered the evidence in the record, finds that: The department issued a decision dated February 12, 2010, reference 04, on the claimant's separation from employment on September 5, 2009, and it issued a subsequent decision dated March 2, reference 05, amending reference 04, on the same separation issue.

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(1) An appeal may be withdrawn at any time prior to the issuance of a decision upon the request of the appellant and with the approval of the presiding officer to whom the case is assigned.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 administrative law judge has reviewed the records and files herein and concludes that this appeal should be dismissed as the separation from employment issue on September 5, 2009 is determined in appeal number 10A-UI-02773-ST according to department decision dated February 12, 2010, reference 04.

DECISION:

This appeal is dismissed, and the department decision dated March 2, 2010, reference 05, is set aside. The claimant's separation from employment on September 5, 2009 in the department decision dated February 12, 2010, reference 04, in appeal number 10A-UI-02773-ST is controlling in this matter.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/css