

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

PAUL LIRA
Claimant

APPEAL NO: 08A-UI-00939-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**L A LEASING INC
SEDONA STAFFING**
Employer

**OC: 01/06/08 R: 04
Claimant: Respondent (6)**

Section 96.19-38-b – Eligibility for Partial Unemployment Insurance Benefits
Section 96.7-2-a(2) – Charges Against Employer’s Account
871 IAC 26.8(1) - Withdrawal of Appeal

STATEMENT OF THE CASE:

An appeal was filed from a representative's decision dated January 25, 2008 (reference 01). A hearing was scheduled for February 12, 2008. At the time for the hearing but in lieu of the hearing being held, the appellant agreed that the appeal should be withdrawn. Based on a review of the administrative file, informal statements by the employer’s representative, Colleen McGuinty, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUES:

Is the employer’s account subject to charge? Should the appellant’s request to withdraw the appeal be granted?

FINDINGS OF FACT:

A request has been made by L A Leasing, Inc./Sedona Staffing (employer), the appealing party, to withdraw the appeal. The request is being made because the employer was not seeking to challenge the claimant’s eligibility for partial unemployment insurance benefits for the week for which he filed a claim, but rather had only sought to challenge the statement in the representative’s decision indicating that the employer’s account was subject to charge. The employer sought to challenge that statement as it believed it was not a base period employer of the claimant. The claimant established an unemployment insurance benefit year effective January 6, 2008. His first day of work for the employer was December 21, 2007.

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- (1) An appeal may be withdrawn at any time prior to the issuance of a decision upon the request of the appellant and with the approval of the presiding officer to whom the case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.

An employer's account is only chargeable if the employer is a base period employer. Iowa Code § 96.7. The base period is "the period beginning with the first day of the five completed calendar quarters immediately preceding the first day of an individual's benefit year and ending with the last day of the next to the last completed calendar quarter immediately preceding the date on which the individual filed a valid claim." Iowa Code § 96.19-3. The claimant's base period began October 1, 2006 and ended September 30, 2007. The employer did not employ the claimant during this time, and therefore the employer is not currently a base period employer and its account is not currently chargeable for benefits paid to the claimant. The representative's decision was not addressing the base period issue, only that the employer was not providing the claimant with the same hours it had previously provided, so that if it was a base period employer, it would have been subject to charge. However, even if the employer was not providing the claimant with the same hours previously provided, the employer is still not going to be subject to charge during the current benefit year, as the employer is not a base period employer.

The request of the appealing party to withdraw the appeal should be approved.

DECISION:

The decision of the representative dated January 25, 2008 (reference 01) is affirmed. The request of the appealing party to withdraw the appeal is approved, and the decision of the representative shall stand and remain in full force and effect. The claimant is entitled to receive unemployment insurance benefits, provided he is otherwise eligible. The employer's account is not subject to charge in the current benefit year as it is not a base period employer.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/pjs