

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DANIELLE A GOULD

Claimant

APPEAL NO: 10A-UI-00842-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

NATIONWIDE MUTUAL INSURANCE CO

Employer

OC: 12/06/09

Claimant: Appellant (6/R)

Section 96.6-2-a – Dismissal of Appeal
871 IAC 24.2(4)c – Cancellation of Claim

STATEMENT OF THE CASE:

Danielle A. Gould (claimant) appealed a representative's January 6, 2010 decision (reference 01) that concluded she was not qualified to receive unemployment insurance benefits after a separation from employment from Nationwide Mutual Insurance Company (employer). Hearing notices were mailed to the parties' last-known addresses of record for a telephone hearing to be held on February 25, 2010. At the time for the hearing but in lieu of the hearing being held, the administrative law judge determined that no hearing was necessary and a decision was made on the record. Based on a review of the information in 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 pending appeal be dismissed?

FINDINGS OF FACT:

The claimant had physically established a claim for unemployment insurance benefits on December 16, 2009; the claimant was set up with an original claim date effective December 6, 2009. On December 21 the claimant submitted a request that her claim be cancelled. Due to Agency claims processing backlog, the cancellation request was not processed until January 8, 2010. In the interim, a fact-finding interview was scheduled and held on January 5, 2010 and the representative issued a decision on January 6, 2010.

The claimant has not as yet taken any action to establish a new claim for unemployment insurance benefits. She is now interested in doing so, and may do so in the near future.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge has reviewed the records and files herein and concludes that the appeal should be dismissed.

The claimant properly cancelled her claim under 871 IAC 24.2(4)c. The fact that the cancellation was not processed more quickly does not negate the fact that the claim was cancelled prior to the fact-finding interview and representative's decision – there was no claim in actual existence to which the decision, or this appeal, would apply.

The appeal in this case is therefore dismissed. Further, the representative's decision issued on January 6, 2010 should be vacated. Also, at such point that the claimant might establish a new claim, a new notice of claim should be sent to the employer, and a new fact-finding interview on the separation should be scheduled and held. The matter is remanded to the Claims Section for such action.

DECISION:

The appeal of the representative's January 6, 2010 decision (reference 01) is dismissed for lack of jurisdiction. The representative's decision should be vacated due to lack of jurisdiction in the absence of a current claim. The matter is remanded to the Claims Section action as needed to carry out this decision.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/css