

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

SHELBY L SEE
Claimant

OEL CONSTRUCTION SERVICES INC
Employer

**APPEAL 19A-UI-00227-DB-T
ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 12/09/18
Claimant: Respondent (6)**

Iowa Code § 96.6(2),(3) – Previous Adjudication
Iowa Code Ch. 17A – Iowa Administrative Procedure Act
Iowa Code Ch. 96 – Iowa Employment Security Act
Iowa Admin. Code r. 871-26.8(1) – Appeal Dismissal
Iowa Admin. Code r. 871-24.19(3) – Subsequent Agency Action

STATEMENT OF THE CASE:

The employer/appellant filed an appeal from an unemployment insurance decision dated December 31, 2018 (reference 01). That decision was declared null and void by a decision dated January 14, 2019 (reference 04). As such, the decision dated December 31, 2018 (reference 01) is null and void due to subsequent agency action. The appeal hearing scheduled for January 28, 2019 at 10:00 a.m. is cancelled.

ISSUE:

Should the appeal be dismissed as moot based on subsequent agency action?

FINDINGS OF FACT:

The available information in the Department's administrative file establishes the following facts:

The department issued a decision on December 31, 2018 (reference 01) finding claimant was eligible for unemployment insurance benefits and that the employer's account may be charged for benefits paid. Employer filed an appeal to the decision. The department later issued a decision on January 14, 2019 (reference 04), finding the December 31, 2018 (reference 01) decision null and void.

REASONING AND CONCLUSIONS OF LAW:

Generally, courts and administrative tribunals do not decide issues when the underlying controversy is moot. *Rhiner v. State*, 703 N.W.2d 174, 176 (Iowa 2005). "A case is moot if it no longer presents a justiciable controversy because the issues involved are academic or nonexistent." *Iowa Bankers Ass'n v. Iowa Credit Union Dep't*, 335 N.W.2d 439, 442 (Iowa 1983). The only issue on this appeal is now moot because the decision was amended by subsequent agency action finding it null and void.

DECISION:

The appeal of the unemployment insurance decision dated December 31, 2018 (reference 01) is dismissed as moot. The hearing scheduled for January 28, 2019 at 10:00 a.m. is cancelled.

Dawn Boucher
Administrative Law Judge

Decision Dated and Mailed

db/rvs