

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**KELLY S UMBARGER**  
Claimant

**APPEAL NO: 10A-UI-17186-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**PROGRESS INDUSTRIES**  
Employer

**OC: 11/14/10  
Claimant: Appellant (6)**

871 IAC 26.8(1) - Withdrawal of Appeal

**STATEMENT OF THE CASE:**

The claimant appealed a representative's December 14, 2010 determination (reference 02) that concluded she was not eligible to receive benefits as of November 14, 2010 because she was working enough hours to be considered employed. A hearing was scheduled on February 1, 2011. The claimant appeared for the hearing with her witness, William Umbarger. Kelly Decker appeared on the employer's behalf. The claimant withdrew her appeal before the hearing started because she has been earning excessive wages. Based on the claimant's withdrawal request, the administrative record, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**FINDINGS OF FACT:**

The claimant upon the advice of her local Workforce appealed. A representative told her that she would be eligible to receive partial benefits if worked 32 hours or less a week. The claimant filed claims for the weeks ending November 20, 2010, through January 20, 2011. For each of these weeks, she reported gross weekly wages of more than \$208.00. As result of excessive earnings, wages more than her maximum weekly benefit amount of \$193.00 + \$15.00, the claimant has not received any partial benefits. As a result of having excessive earnings, the claimant withdrew her appeal from the December 14, 2010 determination. The claimant's withdrawal request was tape-recorded.

**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- (1) An appeal may be withdrawn at any time prior to the issuance of a decision upon the request of the appellant and with the approval of the presiding officer to whom the case is assigned.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 claimant's request to withdraw her appeal is approved.

If the claimant earns less than \$208.00 in a week, she can reopen her claim and file a weekly claim for partial benefits at that time. The Department would then examine her situation at that time to determine if she was eligible to receive benefits.

**DECISION:**

The representative's December 14, 2010 decision (reference 02) is affirmed. The claimant's withdrawal request is approved since the claimant has had excessive wages and is not eligible to receive partial benefits for the weeks she has filed weekly claims. As long as the claimant earned gross weekly wages of more than her maximum weekly benefit amount plus \$15.00, she is not eligible to receive partial benefits.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/css