

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

MINDY S JELLISON
1040 – 10TH ST
CEDAR RAPIDS IA 52404

WAYPOINT
381 – 5TH ST SE
CEDAR RAPIDS IA 52401

Appeal Number: 04A-UI-06160-DWT
OC 05/09/04 R 03
Claimant: Respondent (6)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal are based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

871IAC26.8(1) - Withdrawal of Appeal

STATEMENT OF THE CASE:

Waypoint (employer) appealed a representative's May 25, 2004 decision (reference 01) that concluded Mindy S. Jellison (claimant) was eligible to receive partial unemployment insurance benefits because she was still working part-time for the employer in the same way during her base period and the employer's account was not subject to charge. A hearing was scheduled for June 28, 2004. Prior to the hearing, the employer made a request to withdraw its appeal. Based on the employer's withdrawal request 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 established a claim for unemployment insurance benefits during the week of May 9, after her employment with another employing entity ended. The claimant had been working as a part-time employee prior to May 9 and continues to work part-time for the employer in the same manner. The Department concluded the claimant was eligible to receive partial unemployment insurance benefits and the employer's account was not subject to charge. The employer did not understand the laws governing unemployment benefits or that the claimant was eligible to receive partial unemployment benefits. After the law and the legal ramifications were explained, the employer withdrew its appeal because the employer's account is not subject to charge.

The employer's withdrawal request was tape recorded on June 28, 2004.

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 employer's request to withdraw its appeal is approved.

If the claimant's employment ends, the employer should report this fact to the Department so the reasons for the separation can be investigated and future benefit payments and charges can be done correctly.

DECISION:

The representative's May 25, 2004 decision (reference 01) is affirmed. The employer's request to withdraw its appeal because its account is not subject to charge is approved. This means the claimant remains eligible to receive partial unemployment insurance benefits as of May 9, 2004, provided she meets all other eligibility requirements and properly reports her weekly wages. Under the current facts, the employer's account is not subject to charge.

dlw/kjf