IOWA DEPARTMENT OF INSPECTIONS AND APPEALS
ADMINISTRATIVE HEARINGS DIVISION, UI APPEALS BUREAU

JENNIFER L THOMPSON Claimant **IOWA WORKFORCE DEVELOPMENT** **INVESTIGATIONS AND RECOVERY**	**APPEAL 22A-UI-15613-SN** **ADMINISTRATIVE LAW JUDGE DECISION** **OC: 04/12/20** **Claimant: Appellant (6)**

Iowa Code § 96.3(7) – Overpayment of Benefits Lost Wage Assistance (LWA)
Iowa Code § 96.16(4) – Fraud Penalty
Iowa Admin. Code r. 871-26.8(1) – Withdrawal of Appeal

STATEMENT OF THE CASE:

The claimant, Jennifer Thompson, filed an appeal from the July 19, 2022 (reference 04) unemployment insurance decision that established a $1,800.00 overpayment of benefits due to her receipt of Lost Wage Assistance (LWA). It also imposed a fraud penalty. An in-person hearing was scheduled for October 10, 2022 at 9:15 a.m. That hearing was postponed by this administrative law judge because the parties informed him that they believed a settlement could be reached.

An in-person hearing was reset for November 8, 2022 at 8:45 a.m. The claimant is represented by Marlon Mormann, attorney at law. Iowa Workforce Development is represented by Jeffrey P Koncsol, attorney at law. Prior to the scheduled hearing date, Mr. Mormann requested the appeal be withdrawn because the matter had been settled with the agency, which in his view made all remaining issues moot.

ISSUE:

Should the request to withdraw the appeal be granted?

FINDINGS OF FACT:

The administrative law judge finds that:

On November 7, 2022, the eve of the hearing date, Mr. Mormann sent an email to the Unemployment Appeals Bureau of Department of Inspections and Appeals stating he believed all issues were moot on appeal due to a settlement reached with Iowa Workforce Development Department.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge accepts the appellant's request to withdraw the appeal in this matter.

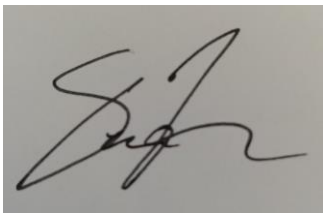
Iowa Admin. Code r. 871-26.8(1) provides:

> (1) An appeal may be withdrawn at any time prior to the issuance of a decision upon the request of the appellant and with the approval of an administrative law judge or the manager or chief administrative law judge of the appeals bureau. Requests for withdrawal may be made in writing or orally, provided the oral request is tape-recorded by the presiding officer.
>
> An appeal may be dismissed upon the request of a party or in the agency's discretion when the issue or issues on appeal have been resolved in the appellant's favor.

DECISION:

The request of the appealing party to withdraw the appeal of the unemployment insurance decision dated July 19, 2022 (reference 04) is approved. That decision shall stand and remain in full force and effect.

The hearing scheduled on November 8, 2022, at 8:45 a.m. is canceled.



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Sean M. Nelson
Administrative Law Judge II
Iowa Department of Inspections & Appeals
Administrative Hearings Division – UI Appeals Bureau

November 15, 2022
Decision Dated and Mailed

smn/mh

APPEAL RIGHTS. If you disagree with the decision, you or any interested party may:

1. Appeal to the Employment Appeal Board within fifteen (15) days of the date under the judge's signature by submitting a written appeal via mail, fax, or online to:

Employment Appeal Board
4th Floor – Lucas Building
Des Moines, Iowa 50319
Fax: (515)281-7191
Online: eab.iowa.gov

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.

AN APPEAL TO THE BOARD SHALL 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 is based.

An Employment Appeal Board decision is final agency action. If a party disagrees with the Employment Appeal Board decision, they may then file a petition for judicial review in district court.

2. If no one files an appeal of the judge's decision with the Employment Appeal Board within fifteen (15) days, the decision becomes final agency action, and you have the option to file a petition for judicial review in District Court within thirty (30) days after the decision becomes final. Additional information on how to file a petition can be found at Iowa Code §17A.19, which is online at https://www.legis.iowa.gov/docs/code/17A.19.pdf or by contacting the District Court Clerk of Court https://www.iowacourts.gov/iowa-courts/court-directory/.

Note to Parties: YOU MAY REPRESENT yourself in the appeal or 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.

Note to Claimant: It is important that you file your weekly claim as directed, while this appeal is pending, to protect your continuing right to benefits.

SERVICE INFORMATION:
A true and correct copy of this decision was mailed to each of the parties listed.

DERECHOS DE APELACIÓN. Si no está de acuerdo con la decisión, usted o cualquier parte interesada puede:

1. Apelar a la Junta de Apelaciones de Empleo dentro de los quince (15) días de la fecha bajo la firma del juez presentando una apelación por escrito por correo, fax o en línea a:

Employment Appeal Board
4th Floor – Lucas Building
Des Moines, Iowa 50319
Fax: (515)281-7191
En línea: eab.iowa.gov

El período de apelación se extenderá hasta el siguiente día hábil si el último día para apelar cae en fin de semana o día feriado legal.

UNA APELACIÓN A LA JUNTA DEBE ESTABLECER CLARAMENTE:
1) El nombre, dirección y número de seguro social del reclamante.
2) Una referencia a la decisión de la que se toma la apelación.
3) Que se interponga recurso de apelación contra tal decisión y se firme dicho recurso.
4) Los fundamentos en que se funda dicho recurso.

Una decisión de la Junta de Apelaciones de Empleo es una acción final de la agencia. Si una de las partes no está de acuerdo con la decisión de la Junta de Apelación de Empleo, puede presentar una petición de revisión judicial en el tribunal de distrito.

2. Si nadie presenta una apelación de la decisión del juez ante la Junta de Apelaciones Laborales dentro de los quince (15) días, la decisión se convierte en acción final de la agencia y usted tiene la opción de presentar una petición de revisión judicial en el Tribunal de Distrito dentro de los treinta (30) días después de que la decisión adquiera firmeza. Puede encontrar información adicional sobre cómo presentar una petición en el Código de Iowa §17A.19, que se encuentra en línea en https://www.legis.iowa.gov/docs/code/17A.19.pdf o comunicándose con el Tribunal de Distrito Secretario del tribunal https:///www.iowacourts.gov/iowa-courts/court-directory/.

Nota para las partes: USTED PUEDE REPRESENTARSE en la apelación u obtener un abogado u otra parte interesada para que lo haga, siempre que no haya gastos para Workforce Development. Si desea ser representado por un abogado, puede obtener los servicios de un abogado privado o uno cuyos servicios se paguen con fondos públicos.

Nota para el reclamante: es importante que presente su reclamo semanal según las instrucciones, mientras esta apelación está pendiente, para proteger su derecho continuo a los beneficios.

SERVICIO DE INFORMACIÓN:
Se envió por correo una copia fiel y correcta de esta decisión a cada una de las partes enumeradas.