

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

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c/o TALX UCM SERVICES
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ST LOUIS MO 63166-0283

HY-VEE INC
c/o TALX UCM SERVICES INC
3799 VILLAGE RUN DR #511
DES MOINES, IA 50317

Appeal Number: 05A-UI-00516-DT
OC: 10/24/04 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 is 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)

871 IAC 26.8(1) - Withdrawal of Appeal

STATEMENT OF THE CASE:

An appeal was filed from a representative's decision dated January 7, 2005 (reference 02). A hearing was scheduled for January 31, 2005. At the scheduled time for the hearing but in lieu of the hearing being held, the appellant requested the appeal be withdrawn. Based on a review of the administrative file and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

FINDINGS OF FACT:

A request has been made on behalf of Hy-Vee, Inc. (employer), the appealing party, to withdraw the appeal. The request has been submitted because another representative's decision was issued on January 31, 2005 (reference 03), which provides that there was a period of

separation from the claimant's part-time employment with the employer that results in the employer's account being relieved of charge, but that because the claimant has requalified since that initial separation from employment with the employer, she is still eligible for her full unemployment insurance benefits. Since this is the result the employer had sought when it originally appealed, pursuit of the appeal in this case is now moot.

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 request of the appealing party to withdraw the appeal should be approved.

DECISION:

The decision of the representative dated January 7, 2005 (reference 02) is affirmed. The request of the appealing party to withdraw the appeal is approved, and the decision of the representative shall stand and remain in full force and effect. The claimant is entitled to receive unemployment insurance benefits, provided the claimant is otherwise eligible.

ld/sc