

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

DILLON DILTZ

Claimant

APPEAL NO. 19A-UI-01345-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WINGER CONTRACTING CO

Employer

OC: 10/14/18

Claimant: Respondent (6)

Iowa Code Section 96.4(3) – Able & Available
Iowa Code Section 96.19(38)(b) – Partial Unemployment
Iowa Code Section 96.19(38)(c) – Temporary Unemployment
Iowa Administrative Code rule 871-26.8(1) - Withdrawal of Appeal

STATEMENT OF THE CASE:

The employer filed a timely appeal from the February 13, 2019, reference 02, decision that allowed benefits to the claimant effective February 3, 2019 provided he was otherwise eligible, based on the deputy's conclusion that the claimant was able and available for work but temporarily laid off. A hearing was scheduled for March 1, 2019. Claimant Dillon Diltz appeared for the hearing. Attorney Patrick Curran and witness Mandy Thrasher appeared on behalf of the employer. Prior to any testimony being taken, the employer/appellant requested that the appeal be withdrawn.

FINDINGS OF FACT:

The employer is the appellant in this matter. The appeal hearing was set for March 1, 2019. Both parties appeared for the recorded, telephonic proceeding. After the administrative law judge provided the opening statement, the administrative law judge reviewed with the parties Department Exhibit D-1 (Continued Claims) and Department Exhibit D-2 (Database Readout). Employer's counsel, upon learning that the employer was not a base period employer for purposes of the claim year that began for the claimant on October 14, 2018 and that the employer would not be charged for benefits in connection with that claim year, requested to withdraw the appeal.

REASONING AND CONCLUSIONS OF LAW:

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(1) An appeal may be withdrawn at any time prior to the issuance of a decision upon the request of the appellant and with the approval of an administrative law judge or the manager or chief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 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.

The administrative law judge is familiar with the Agency administrative file and concludes that the employer's request to withdraw the appeal should be approved.

DECISION:

The employer's request to withdraw the appeal is approved. The February 13, 2019, reference 02, decision that allowed benefits to the claimant effective February 3, 2019 provided he was otherwise eligible, based on the deputy's conclusion that the claimant was able and available for work but temporarily laid off, shall stand.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/rvs