

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ALYSIA D MCWILLIAMS
Claimant

APPEAL NO. 12A-UI-05909-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

GOOD SAMARITAN SOCIETY INC
Employer

OC: 04/22/12
Claimant: Respondent (6)

Iowa Code Section 96.5(2)(a) - Discharge
871 IAC 26.8(1) - Withdrawal of Appeal

STATEMENT OF THE CASE:

The employer filed an appeal from the May 11, 2012, reference 01, decision that allowed benefits. A hearing was scheduled for June 13, 2012 and went forward on that day. Claimant participated. John Kern, Administrator, represented the employer. Due to the limited amount of time allotted for the hearing (one hour) and the number of witnesses (17), the hearing adjourned on June 13, 2012 with the understanding that the hearing would recommence at a later date with proper notice to the parties. On June 14, 2012, prior to conclusion of the hearing or closing of the evidentiary record, the employer/appellant requested that the appeal be withdrawn.

FINDINGS OF FACT:

The employer is the appealing party in this matter. The appeal hearing commenced on June 13, 2012 and adjourned after one hour. One hour had been allotted for the hearing. The employer had listed six witnesses. The administrative law judge had taken the testimony of four of those witnesses prior to the hearing adjourning. The claimant had listed 11 witnesses, none of whom had testified at the time the hearing adjourned on June 13, 2012. Prior to adjourning the hearing upon expiration of the allotted time, the administrative law judge advised the parties that the hearing would recommence at a later date and that both parties would be provided with appropriate notice. The administrative law judge had not yet determined which of the claimant's additional witnesses, or how many of the claimant's additional witnesses, would be allowed to testify.

On June 13, 2012, the administrative law judge scheduled the hearing to recommence on July 2, 2012 and allotted sufficient time to conclude the presentation of evidence. Notice of the rescheduled hearing was mailed to the parties on June 14, 2012.

On June 14, 2012, the employer faxed a written request to withdraw the appeal. The request was submitted by Barbara Kumm, TALX Unemployment Insurance Consultant. On June 15, 2012, the administrative law judge telephoned Ms. Kumm to confirm that she had consulted with the employer and that it was indeed the employer's desire to withdraw the appeal midway through the presentation of the evidence. Ms. Kumm confirmed she had spoken with Mark

Meyer of Good Samaritan Society and that the employer did indeed wish to withdraw the appeal.

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 administrative law judge has reviewed the records and files herein and concludes that the appealing party's request to withdraw the appeal should be approved.

DECISION:

The employer's request to withdraw the appeal is approved. The Agency representative's May 11, 2012, reference 01 decision, which allowed benefits and which concluded the employer's account could be charged, shall remain effect. The hearing set for July 2, 2012 is cancelled.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/css