

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

VICTOR H PESTANA
Claimant

APPEAL 18A-UI-11797-NM-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

OC: 12/10/17
Claimant: Appellant (6)

Iowa Code Ch. 17A – Iowa Administrative Procedure Act
Iowa Admin. Code r. 871-24.19(3) – Claims Bureau Subsequent Action
Iowa Admin. Code r. 871-26.8(1) - Dismissal
Iowa Admin. Code r. 871-26.11 - Motions

STATEMENT OF THE CASE:

The claimant/appellant filed an appeal from the unemployment insurance decision dated December 3, 2018, reference 02, that found he was not eligible for unemployment insurance benefits as of November 11, 2018, because he had failed to provide documentation that he was a citizen or legally authorized to work in the United States. After a hearing was scheduled, Iowa Workforce Development (IWD) issued a favorable decision to the claimant, dated December 14, 2018, reference 03, stating that he is eligible for unemployment insurance benefits effective November 11, 2018 because had provided the requested documentation. This decision made the issue on appeal moot. Therefore, no testimony or additional evidence was necessary. No hearing was scheduled or held.

ISSUES:

Should the most recent unemployment insurance decision be affirmed?

Should the appeal be dismissed as moot?

FINDINGS OF FACT:

These findings of fact are based on the pertinent agency documents relating to this claimant and his appeal. An unemployment insurance decision dated December 3, 2018, reference 02, determined that the claimant was not eligible for unemployment insurance benefits as of November 11, 2018, because he had failed to provide documentation that he was a citizen or legally authorized to work in the United States. The claimant appealed this decision. After a hearing was scheduled, Iowa Workforce Development (IWD) issued a favorable decision to the claimant, dated December 14, 2018, reference 03, stating that he is eligible for unemployment insurance benefits effective November 11, 2018 as long as he meets all the other eligibility requirements. This decision resolved the only issue on appeal in the claimant's favor, making the appeal moot.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge dismisses the appeal.

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

Withdrawals, dismissals, and postponements.

(1) An appeal may be withdrawn at any time prior to the issuance of a decision upon the request of the appellant and with the approval of an administrative law judge or the manager or chief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

Generally, courts and administrative tribunals do not decide issues when the underlying controversy is moot. *Rhiner v. State*, 703 N.W.2d 174, 176 (Iowa 2005). "A case is moot if it no longer presents a justiciable controversy because the issues involved are academic or nonexistent." *Iowa Bankers Ass'n v. Iowa Credit Union Dep't*, 335 N.W.2d 439, 442 (Iowa 1983)

The decision appealed was amended in favor of the appellant, making this appeal moot. The appeal of the original representative's decision dated December 3, 2018, reference 02, is dismissed. The most recent decision, dated December 14, 2018, reference 03, is affirmed.

DECISION:

The request to dismiss the appeal of the unemployment insurance decision dated December 3, 2018, reference 02, is approved. The decision issued on December 14, 2018, reference 03, is affirmed. The appeal is dismissed as moot.

Nicole Merrill
Administrative Law Judge

Decision Dated and Mailed

nm/rvs