

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**MELVIN C MITCHELL**  
Claimant

**O'REILLY AUTOMOTIVE INC**  
Employer

**APPEAL 21A-UI-12362-JC-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 04/19/20**  
**Claimant: Respondent (6)**

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Iowa Code § 96.6(3) – Appeals  
Iowa Admin. Code r. 871-24.28(6-8) – Prior Adjudication  
Iowa Code Ch. 17A – Iowa Administrative Procedure Act  
Iowa Code Ch. 96 – Iowa Employment Security Act  
Iowa Admin. Code r. 871-26.8(1) – Withdrawal of Appeal

**STATEMENT OF THE CASE:**

The employer/appellant, O'Reilly Automotive Inc. filed an appeal from the May 4, 2021 (reference 04) unemployment insurance decision that concluded the claimant's separation had been previously adjudicated and relieved this employer of charges for any benefits. (In other words, the decision was favorable to the employer.) A hearing was scheduled for July 27, 2021. At the time of the hearing, the administrative law judge attempted to contact the employer and was placed on hold for nine minutes. The employer did not respond or contact the Appeals Bureau. Because the issue appealed was resolved administratively prior to the hearing in the appellant's favor (see the reference 02 and 04 representative's decisions), no testimony was necessary and no hearing was held.

**ISSUE:**

Did the employer file an appeal from a favorable decision?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant established a claim for benefits with an effective date of April 19, 2020. A reference 02 initial decision was issued which concluded claimant had requalified for unemployment insurance benefits after his May 20, 2019 separation with this employer, and therefore, he was allowed benefits and this employer was relieved of charges.

For unknown reasons, under the same benefit year, a second initial decision (reference 04) was issued on May 4, 2021, which concluded claimant's May 2019 separation had been previously adjudicated (by the reference 02 decision.) The reference 04 decision specifically stated this employer would be relieved of any charges associated with the claimant. On May 11, 2021, the employer filed an appeal from a favorable decision holding the matter was previously

adjudicated and that this employer was relieved of charges. That appeal was set for hearing in error.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the employer filed an appeal from a favorable decision and the appeal was set for hearing in error.

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.

The employer filed an appeal from a favorable decision on the above-referenced issue, which was set for hearing in error. The representative's decision has become final and remains in full force and effect. For any benefits claimant may receive, this employer will not be charged.

**DECISION:**

The May 4, 2021, (reference 04) unemployment insurance decision is affirmed. The employer filed an appeal from a favorable decision on the above-referenced issue, which was set for hearing in error. The representative's decision has become final and remains in full force and effect.

**The scheduled hearing for July 27, 2021 is cancelled.**



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August 2, 2021  
Decision Dated and Mailed

jlb/scn