

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

GAYLE E BODECKER

Claimant

APPEAL 18A-UI-06713-SC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

HAND IN HAND DAYCARE

Employer

OC: 05/20/18

Claimant: Respondent (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. 871-26.11 – Motions
Iowa Code § 96.5(2)a – Discharge for Misconduct
Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Code § 96.3(7) – Recovery of Benefit Overpayment
Iowa Admin. Code r. 871-24.10 – Employer/Representative Participation Fact-finding Interview

STATEMENT OF THE CASE:

Hand in Hand Daycare (employer/appellant) filed an appeal from the unemployment insurance decision dated June 11, 2018, reference 01, which allowed unemployment insurance benefits based on the determination Gayle E. Bodecker (claimant) was not discharged for willful or deliberate misconduct. Before the hearing was held, the claimant made a motion to dismiss the appeal because, on or about June 11, 2018, she cancelled her claim for unemployment insurance benefits. No testimony or additional evidence was necessary. No hearing was held.

ISSUE:

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 her appeal. The claimant filed her claim for unemployment insurance benefits effective May 20, 2018. An unemployment insurance decision dated June 11, 2018, reference 01, determined that the claimant was eligible for unemployment insurance benefits because she was not discharged for willful or deliberate misconduct. The employer filed an appeal to that decision. On June 11, 2018, the claimant cancelled her claim, unbeknownst to the employer.

Before the hearing was held, the claimant asked that the appeal be dismissed as she cancelled her claim for benefits. The Iowa Workforce Development computer system (TN3270) shows the claimant's claim has been cancelled and that she did not receive any unemployment insurance benefits on the cancelled claim. As the claimant cancelled her claim for benefits, the employer's account is not subject to charge.

If the claimant files a claim for benefits in the future and the employer is still in her base period, a decision about the claimant's eligibility based on her separation will be issued at that time with appeal rights.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge approves the claimant's request to dismiss the appeal as moot.

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 is moot at this time as the claimant does not have a claim for unemployment insurance benefits and the employer's account will not be subject to charge. If the claimant files a claim for benefits in the future and the employer is still in her base period, a decision about the claimant's eligibility based on her separation shall be issued at that time with appeal rights.

DECISION:

The request to dismiss the appeal of the unemployment insurance decision dated June 11, 2018, reference 01, is approved. The claimant cancelled her claim for unemployment insurance benefits and the employer's account is not subject to charge. The appeal is dismissed as moot.

If the claimant files a claim for benefits in the future and the employer is still in her base period, a decision about the claimant's eligibility based on her separation shall be issued at that time with appeal rights.

Stephanie R. Callahan
Administrative Law Judge

Decision Dated and Mailed

src/scn