

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

JOANNE H WILSON
Claimant

HY-VEE INC
Employer

APPEAL NO. 20A-UI-04485-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/22/20
Claimant: Respondent (6)

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

STATEMENT OF THE CASE:

The employer filed a timely appeal from the May 19, 2020, reference 01, decision that allowed benefits to the claimant effective March 22, 2020, provided she was otherwise eligible, based on the deputy's determination that the claimant was able to work and available for work. The decision also stated that the employer account of Hy-Vee, Inc. would not be charged for benefits paid to the claimant, based on the deputy's determination that the claimant was still receiving the same employment from Hy-Vee that she had received during the base period. A hearing was scheduled for June 9, 2020 and the parties were appropriately notified. Claimant Joan Wilson appeared. Barbara Buss of Corporate Cost Control appeared on behalf of the employer, as did witness Danielle Grimm, Hy-Vee Human Resources Manager. During the opening statement, and after a brief discussion, the employer requested to withdraw the appeal.

FINDINGS OF FACT:

The employer, Hy-Vee, Inc., is the appellant in this matter. The decision the employer appealed from was favorable to the employer and relieved the employer of liability for benefits in connection with Ms. Wilson's claim for benefits so long as Hy-Vee continues to offer the same employment to Ms. Wilson as existed in the base period. Workforce Development records reflect that the claimant's primary employer is Von Maur and that the Hy-Vee employment is part-time supplemental. The claimant established her claim in response to being temporarily laid off from the Von Maur employment. The decision that Hy-Vee appealed from allowed benefits to Ms. Wilson provided she met all other eligibility requirements, based on the determination that Ms. Wilson met the able and available requirements despite continuing in the unchanged part-time supplemental Hy-Vee employer. After the administrative law judge discussed with the parties the win-win effect of the May 19, 2020, reference 01, decision, the employer's representative requested that the appeal be withdrawn. The request was made prior to the presentation of evidence and prior to entry of a decision in connection with the appeal.

REASONING AND CONCLUSIONS OF LAW:

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

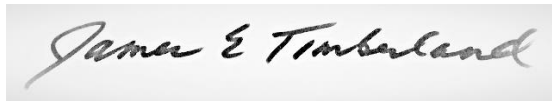
- (1) An appeal may be withdrawn at any time prior to the issuance of a decision upon the request of the appellant and with the approval of an administrative law judge or the manager or chief administrative law judge of the appeals bureau. Requests for withdrawal may be made in writing or orally, provided the oral request is 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 administrative law judge 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 May 19, 2020, reference 01, decision that allowed benefits to the claimant effective March 22, 2020, provided she was otherwise eligible, and that stated that the employer account of Hy-Vee, Inc. would not be charged for benefits paid to the claimant so long as the employer continues to provide the same employment as existed in the based period, remains in effect..



James E. Timberland
Administrative Law Judge

June 30, 2020
Decision Dated and Mailed

jet/sam