

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

MINDY M BROWN
Claimant

IMMANUEL
Employer

APPEAL NO. 21A-UI-07391-JT-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 01/10/21
Claimant: Respondent (6)**

Iowa Code Section 96.4(3) – Able & Available
Iowa Administrative Code rule 871-26.8(1) - Withdrawal of Appeal

STATEMENT OF THE CASE:

The employer filed a timely appeal from the March 2, 2021, reference 01, decision that allowed benefits to the claimant effective January 10, 2021, provided the claimant was otherwise eligible, based on the deputy's conclusion that the claimant was able to work and available for work, but on a short-term layoff. A hearing was scheduled for May 21, 2020. The employer appeared through Susan Chmelovsky of Equifax. The claimant did not provide a telephone number for the and did not appear. Prior to the opening statement and prior to the presentation of evidence, the employer representative made an on-the-record request to withdraw the appeal.

ISSUE:

Should the appellant's request to withdraw the appeal be granted.

FINDINGS OF FACT:

The employer is the appellant in this matter. The employer's appeal was docketed as an appeal from the March 2, 2021, reference 01, decision that allowed benefits to the claimant effective January 10, 2021, provided the claimant was otherwise eligible, based on the deputy's conclusion that the claimant was able to work and available for work, but on a short-term layoff. The information provided in the appeal letter indicates the employer intended to challenge a decision regarding the claimant's separation from the employment. However, on March 2, 2021, Iowa Workforce Development issued a reference 02 decision that disqualified the claimant for benefits and that held the employer's account would not be charged for benefits, based on the deputy's conclusion that the claimant was discharged on January 20, 2021 for violation of a known company rule. Iowa Workforce Development locked the claim for benefits effective January 17, 2020 in response to the reference 02 disqualification decision.

On May 15, 2021, the employer representative renewed a reschedule request pertaining to the hearing set for May 21, 2021. On May 19, 2021, the appeal was reassigned to the undersigned administrative law judge. On that day, the administrative law judge contacted the employer

representative to discuss the reschedule request and to clarify the issues set for hearing. On May 19, 2021, the employer representative withdrew the reschedule request.

At the start of the hearing set for May 21, 2021, the employer representative made an on-the-record request to withdraw the employer's appeal in this matter. The request was made before the administrative law judge entered 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 is familiar with the administrative record and 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 March 2, 2021, reference 01, decision that allowed benefits to the claimant effective January 10, 2021, provided the claimant was otherwise eligible, based on the deputy's conclusion that the claimant was able to work and available for work, but on a short-term layoff, shall stand. However, the March 2, 2021, reference 02, decision that disqualified the claimant for benefits and that held the employer's account would not be charged for benefits, based on the deputy's conclusion that the claimant was discharged on January 20, 2021 for violation of a known company rule, also remains in effect.



James E. Timberland
Administrative Law Judge

May 28, 2021
Decision Dated and Mailed

jet/ol