

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**DAVID A SHERRY**  
Claimant

**YOUNG MENS CHRISTIAN ASSN**  
Employer

**APPEAL NO. 19A-UI-04798-JT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 05/12/19  
Claimant: Respondent (6)**

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Iowa Code Section 96.5(2)(a) – Discharge  
Iowa Administrative Code rule 871-26.8(1) - Withdrawal of Appeal

**STATEMENT OF THE CASE:**

The employer filed a timely appeal from the June 3, 2019, reference 01, decision that allowed benefits to the claimant provided he met all other eligibility requirements and that held the employer's account could be charged for benefits, based on the deputy's conclusion that the claimant was discharged on May 10, 2019 for no disqualifying reason. The appeal hearing is currently in postponed status pending completion of discovery. The employer has submitted a written request to withdraw the appeal.

**FINDINGS OF FACT:**

The employer is the appellant in this matter. The hearing in this matter is currently in postponed status pending completion of discovery. The administrative law judge previously granted the claimants request for time and opportunity to engage in discovery. In response to the claimant's motion to compel discovery, and following a hearing on the motion, the administrative law judge entered an order compelling discovery. On September 4, 2019, the employer submitted a written request to withdraw the appeal in lieu of compliance with the order compelling discovery. The request to withdraw the appeal was submitted before a decision was entered 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- (1) An appeal may be withdrawn at any time prior to the issuance of a decision upon the request of the appellant and with the approval of an administrative law judge or the manager or chief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 file in this matter and concludes the employer's request to withdraw the appeal should be approved.

In light of the withdrawn appeal, no further action on discovery is necessary and the appeal hearing shall not be reset.

**DECISION:**

The employer's request to withdraw the appeal is approved. The June 3, 2019, reference 01, decision that allowed benefits to the claimant provided he met all other eligibility requirements and that held the employer's account could be charged for benefits, based on the deputy's conclusion that the claimant was discharged on May 10, 2019 for no disqualifying reason, remains in effect.

A copy of this decision shall be emailed and mailed to the parties and their legal counsel.

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James E. Timberland  
Administrative Law Judge

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Decision Dated and Mailed

jet/rvs