

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

TANNER J GUNDERSON
Claimant

APPEAL NO: 12A-UI-11038-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

HY-VEE INC
Employer

OC: 01/01/12
Claimant: Respondent (6)

871 IAC 26.8(1) - Withdrawal of Appeal

STATEMENT OF THE CASE:

An appeal was set up as filed from a representative's decision dated February 27, 2012 (reference 01). A hearing was scheduled for October 9, 2012. Prior to the hearing being held, the appellant requested the appeal be withdrawn. Therefore, there is no need for a hearing. Based on a review of the administrative file and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

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

FINDINGS OF FACT:

Hy-Vee, Inc. (employer), through its third party representative, submitted a letter to the Appeals Section on September 12, 2012, questioning the claimant's eligibility for unemployment insurance benefits because of a subsequent separation from employment in May 2012. The only representative's determination regarding the claimant's eligibility was a decision issued on February 27, 2012 (reference 01) regarding the claimant's availability for work, so the employer's letter was treated as an appeal of that decision. However, since that decision had been in favor of the employer, the appeal was initially set up as one on behalf of the claimant. The claimant has not made any appeal of the representative's February 27, 2012, and has not had any activity on his unemployment insurance benefits; he has not been filing for or seeking unemployment insurance benefits. Upon review of the file the administrative law judge determined that the claimant was not the "appealing" party, and corrected the Agency system to reflect that the "appeal" was made by the employer. The employer has now learned that its letter of September 12 is what was relied upon to set up the pending hearing, and agrees that it wishes to withdraw the appeal, with the understanding that should the claimant reopen or reestablish a claim for unemployment insurance benefits in the future that the employer would retain the ability to reassert its concern regarding the May 2012 separation from employment at that time.

REASONING AND CONCLUSIONS OF LAW:

871 IAC 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(1) An appeal may be withdrawn at any time prior to the issuance of a decision upon the request of the appellant and with the approval of the presiding officer to whom the case is assigned. Requests for withdrawal may be made in writing or orally, provided the oral request is tape-recorded by the presiding officer.

The request of the appealing party to withdraw the appeal should be approved.

DECISION:

The decision of the representative dated February 27, 2012 (reference 01) is affirmed. The request of the appealing party to withdraw the appeal is approved, and there will be no hearing. The decision of the representative shall stand and remain in full force and effect. The claimant is not currently entitled to receive unemployment insurance benefits.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/css