

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

MOUSSA PEPOUNA
Claimant

APPEAL 19A-UI-09446-SC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

CITY OF DES MOINES PAYROLL DEPT-B
Employer

OC: 10/20/19
Claimant: Appellant (6)

Iowa Code § 96.5(2)a – Discharge for Misconduct
Iowa Code Ch. 17A – Iowa Administrative Procedure Act
Iowa Admin. Code r. 871-26.8(1) - Dismissal

STATEMENT OF THE CASE:

On December 2, 2019, Moussa Pepouna (claimant) filed an appeal from the November 26, 2019, reference 01, unemployment insurance decision that denied benefits based upon the determination City of Des Moines Payroll Dept-B (employer) discharged him for dishonesty on November 11, 2019. After due notice as issued, a telephone hearing was scheduled on December 31, 2019. However, on December 24, 2019, Iowa Workforce Development (IWD) issued an unemployment insurance decision, reference 02, which amended reference 01, stating the claimant was discharged for dishonesty on September 12, 2019. As the appealed decision was amended by the agency, it is no longer in effect. The appeal of the reference 02 decision is addressed in appeal 19A-UI-10341-SC-T.

ISSUE:

Should the appeal be dismissed because the decision appealed is no longer in effect based on subsequent agency action?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The November 26, 2019, reference 01, unemployment insurance decision that was appealed was amended by the reference 02 decision and is no longer in effect. The appeal of the unemployment insurance decision dated December 24, 2019, reference 02, is addressed in appeal 19A-UI-10341-SC-T.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge dismisses 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(1) An appeal may be withdrawn at any time prior to the issuance of a decision upon the request of the appellant and with the approval of an administrative law judge or the manager or chief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). Inasmuch as the agency amended the prior disqualification before the hearing, there is no issue on this appeal for the administrative law judge to adjudicate. The appeal of the unemployment insurance decision dated December 24, 2019, reference 02, is addressed in appeal 19A-UI-10341-SC-T.

DECISION:

The appeal of the unemployment insurance decision dated November 26, 2019, reference 01, is dismissed as moot.



Stephanie R. Callahan
Administrative Law Judge

January 8, 2020
Decision Dated and Mailed

src/scn