

DIVISION OF EMPLOYMENT SECURITY  
NC DEPARTMENT OF COMMERCE

**PRECEDENT DECISION NO. 38**

*IN RE KOPP*  
(Adopted April 7, 2006)

**ORDER**

Pursuant to N.C.G.S. §96-15(e), this cause has come on before the Commission to consider the claimant's appeal from a decision by Appeals Referee Broxie J. Nelson under Appeals Docket No. VII-A-09218R. The record evidence and any briefs or written arguments timely submitted have been reviewed in their entirety. The undersigned finds that:

1. The claimant filed a claim for unemployment insurance benefits effective March 20, 2005;
2. On April 9, 2005, a Determination by Adjudicator, Docket No. 38462 was issued which held the claimant disqualified for unemployment insurance benefits beginning March 20, 2005 based on the claimant's separation from last employment with Craven County. The claimant appealed the Determination by Adjudicator on April 18, 2005;
3. The matter was scheduled for a hearing before an Appeals Referee. The hearing was conducted on June 6 and July 19, 2005. On August 3, 2005, Appeals Decision No. VII-A-09218 was issued by the Appeals Referee. Said decision held the claimant disqualified for unemployment insurance benefits beginning March 20, 2005. The claimant appealed the decision and the matter came on before the Commission for review. Commission Decision No. 05(UI)4180 was issued on September 20, 2005. Said decision vacated Appeals Decision No. VII-A-09218 and remanded the matter to the Appeals Referee to conduct an additional appeal hearing to recapture the lost testimony elicited at the July 19, 2005 appeals hearing;
4. The remand hearing was scheduled for October 28, 2005 before an Appeals Referee. On October 25, 2005, the Appeals Department of the Employment

Security Commission received the claimant's written request which stated: "I am accepting the decision of the commission to vacate the Appeals Referee decision Mr. Broxie J. Nelson. I am also withdrawing my claim for unemployment benefits. I would also like to request withdraw from the appeals hearing."; and

5. The remand hearing was conducted on October 28, 2005 by the Appeals Referee. Neither the claimant nor the claimant's attorney appeared at the hearing. The Appeals Referee acknowledged receipt of the claimant's request to withdraw her appeal but did not rule on the claimant's request. The Appeals Referee reissued Appeals Decision No. VII-A-09218R which held the claimant disqualified from receiving unemployment insurance benefits beginning March 20, 2005. The claimant appealed and the matter came on before the Commission for review.

A review of the record indicates that the claimant requested withdrawal of her appeal and claim for unemployment insurance benefits prior to the scheduled appeals hearing on October 28, 2005. The claimant's request was voluntary made by the claimant and the record is absent any indication that the claimant's request was done under coercion or duress. The Appeals Referee erred when he reissued Appeals Decision No. VII-A-09218R and did not grant the claimant's request for withdrawal of her appeal.

It is hereby ORDERED, ADJUDGED AND DECREED that:

1. The claimant's request to withdraw her appeal of the Determination by Adjudicator, Docket No. 38462 is **ALLOWED**.
2. Appeals Decision No. VII-A-09218R is hereby **VACATED** and declared **NULL** and **VOID**.
3. The Determination by Adjudicator rendered under Docket No. 38462 is declared the **FINAL** decision of the Commission.