

IOWA WORKFORCE DEVELOPMENT  
Unemployment Insurance Appeals Section  
1000 East Grand—Des Moines, Iowa 50319  
DECISION OF THE ADMINISTRATIVE LAW JUDGE  
68-0157 (7-97) – 3091078 - EI

CANDY A RETTERATH  
2235 LINCOLN ST LOT 29  
CEDAR FALLS IA 50613

ALLIED INTERSTATE INC  
SHEAKLEY UNISERVICE INC  
PO BOX 1160  
COLUMBUS OH 43216-1160

ALLIED INTERSTATE INC  
c/o LU KAUFER  
7103 CHANCELLOR DR STE 100  
CEDAR FALLS IA 50613

Appeal Number: 04A-UI-06505-DWT  
OC: 04/04/04 R: 03  
Claimant: Appellant (1)

**This Decision Shall Become Final**, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4<sup>th</sup> Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal are based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.3-5 – Business Closing

STATEMENT OF THE CASE:

Candy A. Retterath (claimant) appealed a representative's June 4, 2004 decision (reference 02) that concluded her unemployment insurance claim could not be determined as a business closing because as of April 4, 2004, Allied Interstate, Inc. (employer) had not closed its business. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on July 8, 2004. The claimant participated in the hearing. The employer failed to respond to the hearing notice by contacting the Appeals Section prior to the hearing and providing the phone number at which the employer's witness/representative could be contacted to participate in the hearing. As a result, no one represented the employer.

After the hearing had been closed and the claimant had been excused, the employer contacted the Appeals Section. Even though the employer's unemployment insurance agent told the employer's witness they had not received a hearing notice, the employer's witness indicated the hearing did not need to be reopened.

Based on the evidence, the arguments of the claimant, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

As of April 4, 2004, should the claimant's unemployment insurance claim be determined as a business closing?

FINDINGS OF FACT:

The claimant started working for the employer on February 14, 2000. On April 5, 2004, the claimant's employment ended because her job was eliminated. In 2003, the claimant heard the employer was going to close the business. As of July 8, 2004 the employer had not closed the business. The claimant, however, believed the employer planned to end its business operations on July 16 and would close the business on July 30, 2004.

REASONING AND CONCLUSIONS OF LAW:

If a claimant is laid off because the employer is going out of business, the maximum benefits payable shall be extended to 39 times the claimant's weekly benefit amount. Iowa Code §96.3-5. When a Department representative completes a form verifying a business has closed, the appropriate decision to all claimants who requested their unemployment insurance claim be redetermined as a business closing shall be issued. 871 IAC 24.29(3).

The claimant was laid off on April 5, 2004 because her job was eliminated. As of April 4 and July 8, 2004, the employer's business had not yet closed. Therefore, as of July 8, 2004, the claimant is not entitled to have her claim determined as a business closing. At such time that the business closes, the claimant shall be eligible for a redetermination of benefits.

DECISION:

The representative's June 4, 2004 decision (reference 02) is affirmed. As of April 4, 2004, the claimant was not laid off due to a business closure. Recalculation of benefits is denied until the employer's business actually closes. At that point, benefits shall be recalculated.

dlw/tjc

NOTE TO PARTIES: At such time as the business does close or determines an actual closing date, the employer may fax a letter of notification of the closing to the attention of Rose Kell at (515) 242-0494 along with the names and social security numbers of those employees who were laid off before the actual closing date. If claimants have not received notification of the redetermination allowance within a reasonable time after the closing, they may contact Rose Kell at (515) 242-0455.