

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

DENISE K ASSMANN  
3881 - 220<sup>TH</sup> ST  
PORTSMOUTH IA 51565

SHELBY COUNTY MEDICAL CORP  
1220 CHATBURN AVE  
HARLAN IA 51537

Appeal Number: 06A-UI-02384-SWT  
OC: 11/20/05 R: 01  
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 is 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)

871 IAC 24.29(1) – Business Closing

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated February 22, 2006, reference 03, that concluded the claimant was ineligible for business-closing benefits. A telephone hearing was held on March 16, 2006. The parties were properly notified about the hearing. The parties agreed that the hearing could be consolidated for claimants, Denise Assman, Carol Walton, and Maxine Kwapiszeski. The claimants participated in the hearing with a witness, Lois McDermott. Donna Christensen-Mores participated in the hearing on behalf of the employer with a witness, Mark Woodring.

FINDINGS OF FACT:

The claimant worked for the employer as a nurse at the Shelby County Medical Clinic from August 1987 to October 31, 2006. Effective October 31, 2005, the employer sold its business located at 1220 Chatburn Avenue, Harlan, Iowa, to Martue Medical Center, which is the hospital

connected to the clinic, and the claimant was laid off. Martue Medical Center continues to operate the clinic at the same location but did not hire the claimant to work at the clinic.

#### REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant is entitled to have her benefits redetermined as a layoff due to a business closing.

871 IAC 24.29(1) provides:

Business closing.

(1) Whenever an employer at a factory, establishment, or other premises goes out of business at which the individual was last employed and is laid off, the individual's account is credited with one-half, instead of one-third, of the wages for insured work paid to the individual during the individual's base period. This rule also applies retroactively for monetary redetermination purposes during the current benefit year of the individual who is temporarily laid off with the expectation of returning to work once the temporary or seasonal factors have been eliminated and is prevented from returning to work because of the going out of business of the employer within the same benefit year of the individual. This rule also applies to an individual who works in temporary employment between the layoff from the business closing employer and the Claim for Benefits. For the purposes of this rule, temporary employment means employment of a duration not to exceed four weeks.

871 IAC 24.29(2) provides:

(2) Going out of business means any factory, establishment, or other premises of an employer which closes its door and ceases to function as a business; however, an employer is not considered to have gone out of business at the factory, establishment, or other premises in any case in which the employer sells or otherwise transfers the business to another employer, and the successor employer continues to operate the business.

Based on the rules, the claimant is not entitled to extra business-closing benefits because the employer sold the clinic to the hospital and the hospital continues to operate the clinic. The employer no longer operates the clinic, but the clinic itself continues to operate at the same location, but under different ownership.

#### DECISION:

The unemployment insurance decision dated February 22, 2006, reference 03, is affirmed. The claimant is not entitled to have her claim redetermined as a layoff due to a business closing.

saw/tjc