

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

SHELLEY L STALDER  
324 LINCOLN ST  
NEW HAMPTON IA 50659

CONAGRA DAIRY FOODS CO  
c/o TALX UC EXPRESS  
PO BOX 283  
ST LOUIS 63166-0283

Appeal Number: 04A-UI-03751-HT  
OC: 11/02/03 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 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)

Section 96.3-5 – Redetermination of Claim

STATEMENT OF THE CASE:

The claimant, Shelley Stalder, filed an appeal from a decision dated March 31, 2004, reference 01. The decision denied her request to have her claim redetermined as a business permanently closed. After due notice was issued a hearing was held by telephone conference call on April 26, 2004. The claimant participated on her own behalf. The employer, ConAgra, did not provide a telephone number where a representative could be contacted and did not participate.

#### FINDINGS OF FACT:

Having heard the testimony of the witness and having examined all of the evidence in the record, the administrative law judge finds: Shelley Stalder was employed by ConAgra from June 1996 until June 2002. The plant closed and she filed a claim for unemployment benefits with an effective date of June 16, 2002.

In August 2002 Ms. Stalder obtained a temporary job with the United States Department of Agriculture (USDA), which lasted until September 2003. She filed a new claim with an effective date of November 2, 2003, indicating the USDA as her last employer.

#### REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claim may be redetermined as a business permanently closed. The judge concludes it may not.

Iowa Code Section 96.6-3 provides:

3. Appeals. Unless the appeal is withdrawn, an administrative law judge, after affording the parties reasonable opportunity for fair hearing, shall affirm or modify the findings of fact and decision of the representative. The hearing shall be conducted pursuant to the provisions of chapter 17A relating to hearings for contested cases. Before the hearing is scheduled, the parties shall be afforded the opportunity to choose either a telephone hearing or an in-person hearing. A request for an in-person hearing shall be approved unless the in-person hearing would be impractical because of the distance between the parties to the hearing. A telephone or in-person hearing shall not be scheduled before the seventh calendar day after the parties receive notice of the hearing. Reasonable requests for the postponement of a hearing shall be granted. The parties shall be duly notified of the administrative law judge's decision, together with the administrative law judge's reasons for the decision, which is the final decision of the department, unless within fifteen days after the date of notification or mailing of the decision, further appeal is initiated pursuant to this section.

Appeals from the initial determination shall be heard by an administrative law judge employed by the department. An administrative law judge's decision may be appealed by any party to the employment appeal board created in section 10A.601. The decision of the appeal board is final agency action and an appeal of the decision shall be made directly to the district court.

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, which may increase the maximum benefit amount up to 39 times the weekly benefit amount or one-half of the total base period wages, whichever is less. 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.

The claimant's last employer was USDA and that employer has not gone out of business or closed its doors and ceased to operate. Although Con Agra did close its doors, Ms. Stalder's last employer for this claim did not. The claim may not be redetermined as a business closing.

DECISION:

The representative's decision of March 31, 2004, reference 01, is affirmed. Shelley Stalder shall not have her claim redetermined as a business closing.

bgh/b