

**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**

**FLORENCE A ELLIS
2431 LOGAN AVE
DES MOINES IA 50317**

**THOMAS V ELLIS INC
ELLIS ISLAND
2431 LOGAN AVE
DES MOINES IA 50317**

**Appeal Number: 04A-UI-00415-MT
OC: 03/02/03 R: 02
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, 4th 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.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.3-5 – Duration of Benefits (Employer Going Out of Business/Recomputation of Wage Credits)

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated January 13, 2004, reference 05, which held claimant ineligible for business closing benefits pursuant to Iowa Code Section 96.3-5 insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on February 17, 2004. Claimant participated personally. Employer failed to respond to the hearing notice and did not participate.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Employer laid off claimant on March 2, 2003 because business was slow and the owner was preparing to sell the business. The business continued to run at 1833 Hubbell Avenue until its sale in September of 2004 when it changed hands. It is still being operated to date of hearing by the new owner.

REASONING AND CONCLUSIONS OF LAW:

The issue presented in this appeal is whether the claimant was laid off due to his employer going out of business and, therefore, is entitled to have the wage credits recomputed. The administrative law judge holds that the claimant was not laid off as a result of the employer going out of business and, therefore, is not entitled to a recomputation of wage credits. The fact that the business was sold does not mean that the business was permanently closed. The bar is still being operated as a bar to date of hearing. This is a change in ownership and not a business closing. The recomputation is denied.

DECISION:

The decision of the representative dated January 13, 2004, reference 05 is affirmed. The claimant is not entitled to have the unemployment insurance claim redetermined as a business closing, including a recomputation of his wage credits and the claimant's request for such redetermination and recomputation is denied.

mdm\kjf