

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

SALLY E SEATH
Claimant

APPEAL NO. 11A-UI-10355-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

SEATH ENTERPRISES INC
Employer

OC: 05/15/11
Claimant: Appellant (1)

Section 96.3-5 – Business Closure

STATEMENT OF THE CASE:

Sally E. Seath filed a timely appeal from an unemployment insurance decision dated July 28, 2011, reference 04, that denied her request to have her benefits recalculated using the business closure provisions of the statute. After due notice was issued, a telephone hearing was held August 25, 2011, with Ms. Seath participating.

ISSUE:

Is the claimant unemployed as the result of a business closure?

FINDINGS OF FACT:

Sally E. Seath, president of Seath Enterprises, Inc., managed a car wash business known as Auto Shine, which was located at 1317 First Avenue SE in Cedar Rapids, Iowa. The business was operating on an eight-year lease from Johnny Khairallah. The business was losing money rapidly. In order to avoid bankruptcy, Ms. Seath returned the business to Mr. Khairallah, who now operates it as Johnny Boy's Car Wash at the same location.

REASONING AND CONCLUSIONS OF LAW:

The question here is whether Ms. Seath is entitled to having her benefits recalculated using the business closure provisions of the statute. She is not.

Iowa Code section 96.3-5 allows an individual's unemployment insurance benefits to be recalculated if the individual has become unemployed as the result of a business closure. A provision of the Iowa Administrative Code, 871 IAC 24.29, defines a business closure as the ceasing of all economic activity at the location where the individual was last employed. Transfer of the business, by sale or other means, to a new owner who continues the business at the same location is not considered a business closure for unemployment insurance purposes. The evidence in this record establishes that Ms. Seath transferred the business to Mr. Khairallah, who continues to operate the car wash under a new name but at the same location. Under these circumstances, recomputation of benefits is not appropriate.

DECISION:

The unemployment insurance decision dated July 28, 2011, reference 04, is affirmed. The request for re-determination of the claim as a business closure is denied.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

kjw/kjw