

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

DEBRA K STEWART
2519 MERLE HAY RD
DES MOINES IA 50310

REGIS CORP
c/o EMPLOYERS UNITY INC
PO BOX 749000
ARVADA CO 80006-9000

Appeal Number: 04A-UI-09998-DWT
OC: 07/25/04 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 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.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.3-5 – Business Closing

STATEMENT OF THE CASE:

Debra K. Steward (claimant) appealed a representative's September 7, 2004 decision (reference 01) denying her request to have her claim be redetermined as a business closing. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on October 7, 2004. The claimant participated in the hearing. No one on behalf of Regis Corporation (employer) participated in the hearing. 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:

Should the claimant's request to have her claim be determined as a business closing be granted?

FINDINGS OF FACT:

The claimant worked at Cost Cutters for five years as a hairstylist. During this time, the employer owned and managed Cost Cutters. On July 25, 2004, a new company, Evans Management took over Cost Cutters. The claimant's last day of work at Cost Cutters was July 25, 2004. The facility the claimant worked at is still open and is still known as Cost Cutters.

REASONING AND CONCLUSIONS OF LAW:

A claimant who has been laid off from work as the result of a business closing shall be credited with one-half instead of one-third of the wages for insured work paid to the claimant during her base period. Iowa Code §96.3-5. Going out of business means an establishment, which closes its door, and ceases to function as a business. An employer is not considered to have gone out of business when an employer sells or transfers the business to another employer and the successor employer continues to operate the business. 871 IAC 24.29(2).

The facts do not establish that the business the claimant worked at was closed. Ownership and management changed "hands," but the business continued operating. Therefore, the claimant's request to redetermine her claim as a business closing is denied.

DECISION:

The representative's September 7, 2004 decision (reference 01) is affirmed. The claimant's request to redetermine her claim as a business closing because the business did not close. Instead ownership of the business and management changed.

dlw/kjf