

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

EMERITA ALVARENGA
2900 SHERIDAN AVE
DES MOINES IA 50310

THE IOWA PACKING COMPANY
c/o HIGHRIDGE PARTNERS
140 S DEARBORN STE 820
CHICAGO IL 60603

Appeal Number: 04A-UI-04205-AT
OC: 12-21-03 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 – Business Closure Benefits

STATEMENT OF THE CASE:

Emerita Alvarenga filed a timely appeal from an unemployment insurance decision dated April 7, 2004 which allowed regular unemployment insurance benefits to her but which denied her request to recompute her benefits using the business closure provisions of the statute. After due notice was issued, a telephone hearing was held April 27, 2004 with Ms. Alvarenga participating. Guadalupe McCarney was the interpreter. The employer, The Iowa Packing Company, did not respond to the hearing notice.

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: Emerita Alvarenga was last employed by The Iowa Packing Company plant on Maury Street in Des Moines, Iowa. The Iowa Packing Company has sold the facility to Pineridge Farms. Pineridge Farms is operating at one of the two buildings at that location, but it is not operating in the second building.

REASONING AND CONCLUSIONS OF LAW:

The question is whether it is appropriate under the facts of this case to allow recomputation of Ms. Alvarenga's benefits. It is not.

Iowa Code Section 96.3-5 allows recomputation of benefits only if the claimant's former employer has completely ceased operations at the location where the individual last worked and no other employer is operating at the location. A reduction in force, even one which results in the closing of a portion of the premises, is not sufficient to allow recomputation so long as some business activity is being carried on at the location. Since Pineridge Farms is operating at one of the two buildings at the Maury Street location, the claimant's request must be denied.

DECISION:

The unemployment insurance decision dated April 7, 2004 reference 04 is affirmed. The claimant's request to recalculate her unemployment insurance benefits pursuant to the business closure provisions is denied.

sb/b