

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

HEATHER D MCBURNEY
1001 N 2ND ST APT #4
OSKALOOSA IA 52577-2351

PLEASANT PARK ESTATES INC
C/o CLARICE WRIGHT
2089 – 270TH ST
OSKALOOSA IA 52577

Appeal Number: 06A-UI-04692-AT
OC: 10-02-05 R: 03
Claimant: Respondent (4)

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

STATEMENT OF THE CASE:

The employer filed a timely appeal from an unemployment insurance decision dated February 27, 2006, reference 02, which allowed unemployment insurance benefits to the claimant computed using the business closure provisions of the statute. Due notice was issued for a telephone hearing to be held on June 8, 2006. Neither party participated. This decision is based on information in the administrative file and in agency benefit payment records and hearing records.

FINDINGS OF FACT:

Having examined all matters of record, the administrative law judge finds: The claimant was last employed by Pleasant Park Estates, Inc. at 1514 High Street, Avenue West, Oskaloosa, Iowa. The business was sold to a new owner who continued operating the retirement home. The claimant was not hired by the new employer. There was never a period of time in which business activity was not occurring at 1514 High Street, Avenue West in Oskaloosa.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the claimant is entitled to benefits computed using the business closure provisions of the employment security law. The administrative law judge concludes that although the claimant is entitled to receive benefits based on the normal computation method, the claimant is not entitled to computation of benefits based upon the business closure method.

An employer is not considered to have gone out of business if the employer sells or otherwise transfers the business to another employer who continues to operate the business. See 871 IAC 24.29(2). The evidence in this record persuades the administrative law judge that Pleasant Park Estates, Inc. sold its business to another entity which continued in operation at the location where the claimant last worked. Under these circumstances, computation of benefits using the business closure method is not appropriate.

DECISION:

The unemployment insurance decision dated February 27, 2006, reference 02, is modified. The claimant is entitled to receive unemployment insurance benefits using the normal method of computation but is not eligible for benefits computed using the business closure provisions.

pjs/pjs