IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS

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

STEVE R KIRSTEIN Claimant **JACOBUS ENERGY INC** Employer	**APPEAL NO. 08A-UI-05917-DWT** **ADMINISTRATIVE LAW JUDGE DECISION** **OC: 06/08/08 R: 02** **Claimant: Respondent (4)**

Section 96.5-1-a – Employer Liability

STATEMENT OF THE CASE:

Jacobus Energy, Inc. (employer) appealed a representative's June 19, 2008 decision (reference 03) that concluded Steve R. Kirstein (claimant) was qualified to receive benefits, and the employer's account was subject to charge because the claimant had been laid off from work. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on July 21, 2008. The claimant participated in the hearing. Kim Dasko, a human resource administrator, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Is the employer's account subject to charge?

FINDINGS OF FACT:

The claimant started working for the employer on January 3, 2005. The claimant worked for the employer's environmental division in Iowa. The claimant worked full time. December 11, 2006, was the claimant's last day of work for the employer because the employer sold its environmental division to Safety Kleen Systems, Inc.

Although the claimant did not like the way he learned the business had been sold to Safety Kleen Systems, Inc. and did not sign paperwork Safety Kleen Systems, Inc. asked him to sign, the claimant continued working on December 12, 2006, with no gap in employment, for Safety Kleen Systems, Inc.

The claimant worked about 45 days for Safety Kleen Systems, Inc. and then began working for another employer, Northland Product Company, Inc. The claimant earned more than ten times his weekly benefit or more than $3,470.00 between December 12, 2006 and June 8, 2008.

The employer does not know if its unemployment insurance account for the environmental division was transferred to Safety Kleen Systems, Inc. upon the sale of this division.

REASONING AND CONCLUSIONS OF LAW:

The evidence establishes that even though the employer sold its environmental division, the claimant did not have any gap in employment as a result of the sale. One day he worked for the employer and the next day, he worked for Safety Kleen Systems, Inc. Under the facts of this case, Iowa Code § 96.5-1-a applies. As a result, the employer's account will not be charged.

Even though his employers changed, the claimant remains qualified to receive benefits upon any theoretical employment separation that may have occurred as the result of the sale of the employer's environmental division.

DECISION:

The representative's June 19, 2008 decision (reference 03) is affirmed in part and modified in part. The claimant is not disqualified from receiving benefits because the employer sold its environment division to Safely Kleen Systems, Inc. and there was no gap in employment for the claimant. Based on the facts in this case, the employer's account will not be charged.

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Debra L. Wise
Administrative Law Judge

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Decision Dated and Mailed

dlw/css