

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

MARLENE A SCHOEPKE  
1209 W 2<sup>ND</sup> AVE  
INDIANOLA IOWA 50125

APPLE TREE INN COMPANY OF  
INDIANOLA  
1215 N JEFFERSON  
INDIANOLA IA 50125

Appeal Number: 06A-UI-01375-AT  
OC: 10/23/05 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, 4<sup>th</sup> 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.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.3-5 – Business Closure

STATEMENT OF THE CASE:

Marlene A. Schoepke filed a timely appeal from an unemployment insurance decision dated February 2, 2006, reference 02, which allowed unemployment insurance benefits but which declined to recomputed Ms. Schoepke's benefits as being the result of a business closure. Due notice was issued for a telephone hearing to be held February 21, 2006. At the request of the employer and with the consent of the claimant, it was held instead on February 10, 2006. Ms. Schoepke participated on her own behalf. Ardene Downing, former owner of the Apple Tree Inn, participated for the employer.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: Marlene A. Schoepke was employed as resident manager of the Apple Tree Inn at the time the business was sold to a new owner. Ms. Schoepke's position was eliminated. The Apple Tree Inn continues to operate at 1215 North Jefferson in Indianola, Iowa, under new ownership.

REASONING AND CONCLUSIONS OF LAW:

The question is not whether Ms. Schoepke is entitled to receive regular unemployment insurance benefits. The only question before the administrative law judge is whether she is entitled to recomputation of the benefits pursuant to the business closure provisions of the statute, a recomputation which could result in Ms. Schoepke receiving up to an additional 13 weeks of benefits.

The administrative law judge concludes that redetermination of benefits is not appropriate. Provisions in the Iowa Code and Iowa Administrative Code make it clear that the sale of a business is not in itself sufficient to establish a business closure. Before there can be a redetermination of benefits under the business closure provisions of the law, the evidence must establish that the business at which the claimant last worked has ceased operations. The evidence here establishes that the Apple Tree Inn continues to operate at its prior location under new ownership. For this reason, redetermination of benefits is not appropriate.

DECISION:

The unemployment insurance decision dated February 2, 2006, reference 02, is affirmed. The claimant is entitled to receive regular unemployment insurance benefits, provided she is otherwise eligible. She is not eligible for redetermination of her benefits based upon the business closure provisions of the law.

kjf/kjw