

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

BRENDA L WILLIAMS
109 N 4TH #4
OSKALOOSA A 52577

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

Appeal Number: 06A-UI-00695-CT
OC: 10/23/05 R: 03
Claimant: Respondent (1-R)

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 96.5(1) – Separations from Employment

STATEMENT OF THE CASE:

Pleasant Park Estates, Inc. filed an appeal from a representative's decision dated January 10, 2006, reference 01, which held that Brenda Williams had been laid off due to lack of work. After due notice was issued, a hearing was held by telephone on February 6, 2006. Ms. Williams participated personally and offered additional testimony from Walter Williams. The employer participated by Clarice Wright, Owner.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Clarice Wright owned and operated Pleasant Park Estates, a health care facility, until October 23, 2005. The business was located at 1514 High Avenue West in Oskaloosa, Iowa. The building in which the facility operated is owned by Total Quality, which is owned by Ms. Wright. As of October 24, 2005, Crystal Properties, Inc. (Crystal), took over the day-to-day operation and management of the facility formerly known as Pleasant Park Estates and Pleasant Park Estates ceased to operate as a business at that location. Ms. Wright has no ownership interest in Crystal. Crystal is currently leasing the building with an aim towards purchase.

Ms. Williams filed a claim for job insurance benefits effective October 23, 2005. Notice of the claim was mailed to Pleasant Park Estates at the High Avenue address on November 2, 2005. The notice was received and responded to by Crystal. Crystal participated as the employer in the fact-finding interview held on November 15, 2005. The representative's decision that is the subject of this appeal was made under the employer account number for Pleasant Park Estates. Ms. Wright has not had an opportunity, as owner of Pleasant Park Estates, to protest or participate in a fact-finding interview concerning Ms. Williams' claim.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Pleasant Park Estates, Inc. has been denied procedural due process by not having an opportunity to participate in the fact-finding interview on Ms. Williams' claim. The employer's argument is as follows. Having not participated in the interview, the employer could not have foreseen the precise issues for the hearing of February 6, 2006. Therefore, the employer may not have been adequately prepared to present available evidence. Since admission of new evidence at the next appeal stage, the Employment Appeal Board, may be limited or foreclosed in its entirety, the employer would have no opportunity to present material evidence that they could not have known would be needed at the hearing stage.

The administrative law judge concludes that the employer's argument has merit. Workforce Development sent the notices required by law to the employer's address of record. Workforce Development had every reason to believe that the appropriate person was participating in the fact-finding interview. In short, there was no intent to deprive the employer of an opportunity to be heard at the fact-finding level. However, the employer is entitled to the full benefit of the appeal process, including the opportunity to participate in a fact-finding interview to discover what the precise issues are. This is especially true where the employer stands to lose financially if its account is charged for benefits paid to Ms. Williams. For the above reasons, this matter shall be remanded to Claims to conduct a fact-finding interview between the parties.

DECISION:

The representative's decision dated January 10, 2006, reference 01, is hereby affirmed at this time. This matter is remanded to Claims to conduct a fact-finding interview with Ms. Wright and Ms. Williams.

cfc/kjf