

**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**

**LAWRENCE M SLOAN  
811 – 7<sup>TH</sup> ST  
NEVADA IA 50201**

**LEE'S SECURITY AGENCY INC  
CONLEY SECURITY AGENCY  
1906 INGERSOLL AVE  
DES MOINES IA 50309**

**Appeal Number: 05A-UI-07036-HT  
OC: 12/26/05 R: 02  
Claimant: Appellant (2)**

**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.

---

(Administrative Law Judge)

---

(Decision Dated & Mailed)

Section 96.3(5) – Business Closing

STATEMENT OF THE CASE:

The claimant, Lawrence Sloan, filed an appeal from a decision dated June 30, 2005, reference 04. The decision denied the request to redetermine the claim as a business permanently closed. After due notice was issued a hearing was held by telephone conference call on July 26, 2005. The claimant participated on his own behalf. The employer, Lee's Security did not provide a telephone number where a representative could be contacted and did not participate.

#### 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: Lawrence Sloan began employment with Lee's Security in July 2000. He was separated from the employment effective December 20, 2004, because the company's assets and accounts had been seized by various creditors.

The creditor who seized the employer's accounts sold them to Per Mar Security and under the sales agreement, the purchaser did cover the last payroll period for Lee's Security, and wages were reported for the claimant by Per Mar in the fourth quarter of 2004. Per Mar then hired many of the employees who used to work for Lee's Security, though the claimant was not among them.

Iowa Workforce Development has determined there to have been a successorship from Lee's Security to Per Mar, and an appeal has been filed by Per Mar. The issue has not yet been resolved due to difficulty in gathering information from Lee's Security.

#### REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claim should be redetermined. The judge concludes it should.

Iowa Code Section 96.3-5 provides:

5. Duration of benefits. The maximum total amount of benefits payable to an eligible individual during a benefit year shall not exceed the total of the wage credits accrued to the individual's account during the individual's base period, or twenty-six times the individual's weekly benefit amount, whichever is the lesser. The director shall maintain a separate account for each individual who earns wages in insured work. The director shall compute wage credits for each individual by crediting the individual's account with one-third of the wages for insured work paid to the individual during the individual's base period. However, the director shall recompute wage credits for an individual who is laid off due to the individual's employer going out of business at the factory, establishment, or other premises at which the individual was last employed, by crediting the individual's account with one-half, instead of one-third, of the wages for insured work paid to the individual during the individual's base period. Benefits paid to an eligible individual shall be charged against the base period wage credits in the individual's account which have not been previously charged, in the inverse chronological order as the wages on which the wage credits are based were paid. However if the state "off indicator" is in effect and if the individual is laid off due to the individual's employer going out of business at the factory, establishment, or other premises at which the individual was last employed, the maximum benefits payable shall be extended to thirty-nine times the individual's weekly benefit amount, but not to exceed the total of the wage credits accrued to the individual's account.

The evidence in the record indicates there was not a sale of the business from Lee's Security to Per Mar, but only a purchase of some of the employer's assets from a third-party creditor. Under the provisions of 871 IAC 23.28(7)e, there is no transfer of the employer's experience unless the mortgagee takes over the operation of the business and continue it to the same basic extent as though there had been no basic change in the ownership control. The administrative law judge considers this to be the governing principle in the present case. Lee's Security did go out of business and the claim should be redetermined on that basis.

DECISION:

The representative's decision of June 30, 2005, reference 04, is reversed. Lawrence Sloan shall have his claim redetermined as a business permanently closed.

bgh/kjf