

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

DARRELL L MOORE
531 BOSTON AVE
WATERLOO IA 50703

DAY LITE ENTERPRISES
PO BOX 45
WAUCOMA IA 52171

Appeal Number: 04A-UI-08517-CT
OC: 07/25/04 R: 03
Claimant: Respondent (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, 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 871 IAC 24.1(113)a - Layoffs

STATEMENT OF THE CASE:

Day Lite Enterprises filed an appeal from a representative's decision dated August 4, 2004, reference 01, which held that no disqualification would be imposed regarding Darrell Moore's separation from employment. After due notice was issued, a hearing was held by telephone on August 30, 2004. Mr. Moore participated personally. The employer participated by Tom Towlerton, Former President.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all the evidence in the record, the administrative law judge finds: Mr. Moore was employed by Day Lite Enterprises from

November 2001 until April 2, 2003. He worked approximately five hours per week delivering the Waterloo Courier newspaper. The employer performed services for Waterloo Courier pursuant to a contract. The employer gave notice to Waterloo Courier that it desired to end the contractual relationship. The contractual relationship ended on or about April 2, 2003 and Day Lite Enterprises was dissolved as a business entity. The business was not sold or otherwise transferred to Waterloo Courier. Day Lite Enterprises had no further work available for Mr. Moore after April 2, 2003.

Waterloo Courier offered Mr. Moore and others work as independent contractors to perform the same work as they had been performing for Day Lite Enterprises. Mr. Moore accepted the offer and is still working for Waterloo Courier as an independent contractor delivering newspapers.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether the employer should be relieved of charges for job insurance benefits paid to Mr. Moore. Mr. Moore became separated from the employment when the employer decided to dissolve the business. Therefore, he was separated because the employer no longer had work for him. It is true that Mr. Moore subsequently entered into an independent contractor relationship with Waterloo Courier. However, this would not relieve Day Lite Enterprises of liability for its pro rata share of benefits paid to Mr. Moore.

Where an individual goes to work for a successor employer when his employer sells the business or a part of the business, the liability for job insurance benefits shifts to the successor employer. See Iowa Code Section 96.5(1)i. However, in the case at hand, Day Lite Enterprises did not sell the business or a part of the business to Waterloo Courier. Furthermore, Mr. Moore was not an employee of Waterloo Courier after Day Lite Enterprises ceased to operate as a business.

For the reasons cited herein, the administrative law judge concludes that Mr. Moore was separated from employment for no disqualifying reason. It is further concluded that there is no basis for relieving the employer of benefit charges.

DECISION:

The representative's decision dated August 4, 2004, reference 01, is hereby affirmed. Mr. Moore was separated from Day Lite Enterprises for no disqualifying reason. Benefits are allowed, provided he satisfies all other conditions of eligibility. Day Lite Enterprises will be charged its pro rata share for benefits paid to Mr. Moore.

cfc/tjc