

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KAREN P SCHOBERT
Claimant

APPEAL NO. 13A-UI-12340-VST

**ADMINISTRATIVE LAW JUDGE
DECISION**

RIVERS EDGE BAR & RESTAURANT
Employer

OC: 05/05/13
Claimant: Appellant (1)

Section 96.3(5) – Business Closing Benefits

STATEMENT OF THE CASE:

The claimant filed an appeal from a representative's decision dated October 24, 2013, reference 02, which denied the claimant's request to have her claim redetermined as a business closing. After due notice, a hearing was held on November 26, 2013. The claimant participated personally. The employer failed to respond to the hearing notice and did not participate. The record consists of the testimony of Karen Schobert.

ISSUE:

Whether the claimant's request to have her unemployment insurance claim redetermined as a business closing effective May 5, 2013, should be allowed.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witness and having considered all of the evidence in the record, makes the following findings of fact:

The claimant worked for a business called River's Edge Bar and Restaurant. The owner of this business was leasing the facility and decided to close. The claimant's last day of work was May 5, 2013. The owners of the facility reopened the business on Memorial Day, 2013. The name of the successor business is Sweeneys on the River. The claimant was asked to return to work and she did.

REASONING AND CONCLUSIONS OF LAW:

The law provides that if a claimant has been laid off due to her employer going out of business, the claimant's account is credited with one-half instead of one-third of the wages for insured work. Iowa Code section 96.3-5, 871 IAC 24.29(1).

Going out of business means any factory, establishment, or other premises of an employer that closes its door and ceases to function as a businesses; however, an employer is not considered to have gone out of business at the factory, establishment, or other premises in any case in

which the employer sells or otherwise transfers the business to another employer, and the successor employer continues to operate the business. 871 IAC 24.29(2).

The claimant is not entitled to have her benefits be re-determined as a business closing. The facts establish the business was transferred to another employer and this owner continues to operate the business.

DECISION:

The decision of the representative dated October 24, 2013, reference 02, is affirmed. The claimant is not eligible for business closing benefits.

Vicki L. Seeck
Administrative Law Judge

Decision Dated and Mailed

vls/pjs