

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TAMEKA R WILSON
Claimant

APPEAL NO. 14A-UI-06447-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

COMMUNITY CARE INC
Employer

OC: 04/27/14
Claimant: Appellant (1)

Iowa Code § 96.3-5 – Duration of Benefits (Employer Going Out of Business/Re-computation of Wage Credits)

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated June 13, 2014, reference 03, which held claimant ineligible for business closing benefits pursuant to Iowa Code § 96.3-5. After due notice, a hearing was scheduled for and held on July 15, 2014. Claimant participated personally. Employer participated by Dana Fishnick. Claimant's Exhibits One and Two were admitted into evidence.

ISSUE:

The issue presented in this appeal is whether the claimant was laid off due to the employer going out of business and, therefore, is entitled to have the wage credits re-computed.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Employer was facing financial difficulties and sought to close or sell the business. Employer found a third party to buy the business, at least the portion that would involve claimant's employment. Claimant and other employees were told by the new prospective owner that they would have jobs as long as they went through the interview process, took new physicals, and appeared to be satisfactory candidates. There were rumors that the wages paid to claimant and other registered nurses would be reduced by approximately \$5.00 an hour, (this did not end up actually occurring). Claimant, who lived 40 miles away from her job, was not excited about the new potential employer and did not fully cooperate with the interview process. It was decided that claimant would not be brought over into the new position. Claimant had committed no misconduct during this process.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge holds that the claimant was not laid off as a result of the employer going out of business and, therefore, is not entitled to a re-computation of wage credits.

Whereas claimant's coworkers, who were similarly situated, were not laid off and kept their positions with the new employer; claimant's loss of her position was not a result of a business closing, but rather as a result of claimant's reevaluation of where she wished to work and how much she wished to get paid.

Iowa Code § 96.3(5)a provides:

a. 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 re-compute 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.

DECISION:

The decision of the representative dated June 13, 2014, reference 03 is affirmed. The claimant is not entitled to have the unemployment insurance claim re-determined as a business closing, including a re-computation of wage credits. The claimant's request for such re-determination and re-computation is denied. Said decision does not affect claimant's previous determination to be eligible to receive unemployment insurance benefits, as long as all other eligibility requirements are met.

Blair A. Bennett
Administrative Law Judge

Decision Dated and Mailed

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