

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DIANE M JOHNSON

Claimant

APPEAL NO: 11A-UI-00323-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

FRONTIER MOTOR INN INC

Employer

OC: 11/21/10

Claimant: Appellant (2/R)

Iowa Code § 96.3(5) – Business Closing

PROCEDURAL STATEMENT OF THE CASE:

The claimant and 18 other claimants appealed representatives' January 6, 2011 determinations that denied each of their requests to have their claim redetermined as a business closing. The appeals were considered consolidated for hearing purposes. The claimants were represented at the hearing by Katrina Norton and Jon Lueders. Kim Jacobi appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge grants the claimants' requests to have their claims redetermined as a business closing.

ISSUE:

Should the claimants' claims be redetermined as a business closing?

FINDINGS OF FACT:

The claimants worked for the employer, a public hotel. The land the employer's facility was located on was sold to Ashford University. Ashford University converted the hotel to private residential dorm rooms. The building is no longer a public building. Ashford University took over the land and building on October 31, 2010. The majority of the claimants' jobs ended on October 31, 2010.

REASONING AND CONCLUSIONS OF LAW:

Iowa unemployment insurance law provides additional benefits for claimants laid off due to their employer going out of business at the factory, establishment, or other premises at which they were last employed. Iowa Code § 96.3(5). The unemployment insurance rules further provide business-closing benefits are to be paid retroactively to a claimant who is temporarily laid off with the expectation of returning to work and is prevented from returning to work because the employer has gone out of business during the claimant's benefit year. 871 IAC 24.29(1). Finally, the rules define going out of business as any factory, establishment, or other premises of an employer that closes its doors and ceases to function as a business. An employer is not considered to have gone out of business at the factory, establishment, or other premises if 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).

When Ashford University bought the land, the employer's business was closed. Ashford University did not continue operating the building as a motel. Instead, Ashford University used the motel as private college dormitory rooms for the university's students. The claimants' request to redetermine their claims as a business closing is granted.

DECISION:

The representative's January 6, 2011 determination for each of the 19 claimants is reversed. Each of the 19 claimants' request to have their claim redetermined as a business closing is approved. Each claimant's claim is **Remanded** to the Claims Section to redetermine as a business closing.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css