

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

JUDY K HERRING
Claimant

NPC INTERNATIONAL INC
Employer

APPEAL NO. 20A-UI-12429-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 09/13/20
Claimant: Appellant (2)

Iowa Code Section 96.3(5) – Duration of Benefits
871 IAC 24.29 – Business Closing

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the October 6, 2020, reference 01, decision that denied her request to have her benefits redetermined as being based on a layoff pursuant to a business closing. After due notice was issued, a hearing was held on December 8, 2020. Claimant participated. The employer did not provide a telephone number for the hearing and did not participate. Exhibits A, B and C were received into evidence.

ISSUE:

Whether the claimant was laid off pursuant to a business closing.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed by NPC International, Inc. doing business as Pizza Hut, as a shift supervisor and server until September 9, 2020, when the employer laid her off. The claimant began with the employer in 2003. The claimant worked at the Pizza Hut located in Vinton, Iowa. The claimant last performed work for the employer on Sunday, September 6, 2020. The employer last opened for business at the Vinton location on September 8, 2020. The employer did not open for business at the Vinton location on September 9, 2020. Instead, the employer held a staff meeting at which the employer distributed a September 8, 2020 letter from Vonnie Suhr, Chief People Officer, NPC International. The letter stated that the Vinton restaurant was permanently closed as of September 8, 2020 and that the claimant's employment was permanently terminated. In the week that followed, the claimant's supervisor boxed up supplies to be shipped to other NPC/Pizza Hut stores that did not close. In November 2020, the employer placed a large roll-off dumpster in front of the restaurant door and emptied the remaining contents of the restaurant into the dumpster, including tables and chairs. There is no indication that the business or the property was sold to another business. Nothing is operating from the Vinton Pizza Hut location and there is no indication that any business will be operating from that location in the foreseeable future.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 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 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.

Iowa Admin. Code r. 871-24.29(2) provides:

(2) Going out of business means any factory, establishment, or other premises of an employer which closes its door and ceases to function as a business; 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.

The evidence establishes that that the claimant was indeed laid off effective September 9, 2020 as the result of a business closing. The claimant is eligible to have her unemployment insurance benefit eligibility redetermined as being based on a business closing.

DECISION:

The October 6, 2020, reference 01, decision is reversed. The claimant was laid off effective September 9, 2020 due to a business closing and her benefits shall be redetermined accordingly.

A rectangular box containing a handwritten signature in cursive script that reads "James E. Timberland".

James E. Timberland
Administrative Law Judge

December 15, 2020
Decision Dated and Mailed

jet/scn