

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ROBERT W CAMERON**  
Claimant

**APPEAL NO. 07A-UI-05565-NT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**RIVERDEEP INC LLC**  
Employer

**OC: 04/08/07 R: 03**  
**Claimant: Appellant (1)**

Section 96.3-5 – Layoff Due to Business Closing

**STATEMENT OF THE CASE:**

Robert Cameron filed an appeal from a representative's decision dated May 23, 2007, reference 04, which denied his request to have his unemployment insurance claim redetermined as a business closing effective April 8, 2007. After due notice was issued, a telephone hearing was scheduled for and held on June 20, 2007. Mr. Cameron participated personally. Although notified, there was no participation by the employer. Claimant's Exhibits One, Two and Three were received into evidence.

**ISSUE:**

At issue in this matter is whether Mr. Cameron's claim should be redetermined as a business closing.

**FINDINGS OF FACT:**

Having heard the testimony of the witness and having reviewed the evidence in the record, the administrative law judge finds: Mr. Cameron was employed as a direct sales and service employee for Riverdeep Inc. LLC from August 1998 until March 30, 2007 when he was laid off due to a future relocation of the company's business. Mr. Cameron was notified that he would be separated from his employment due to a "plant closing" that was expected to occur by April 1, 2007 (see Exhibit Three). The claimant had also received other correspondence from the company regarding the company's merger with another company, its relocation and its effect upon employees. Mr. Cameron separated from his employment on March 30, 2007 and subsequently opened a claim for unemployment insurance benefits on April 8, 2007.

Although the employer indicated in its correspondence to Mr. Cameron that the facility would be closed effective April 1, 2007, the facility remains open with a "skeleton crew" as of the hearing date June 20, 2007. Mr. Cameron is aware that in the event that the facility closes he has the right to request that his claim be redetermined at that time.

**REASONING AND CONCLUSIONS OF LAW:**

The administrative law judge concludes based upon the evidence in the record that Riverdeep Inc. LLC did not permanently close business effective April 8, 2007 and that the facility where

Mr. Cameron was most recently assigned continues to be in operation as of the date of the hearing in this matter on June 20, 2007.

Although the administrative law judge is aware that the company made representations to Mr. Cameron indicating that the facility would close effective April 1, 2007 (see Exhibit Three), the facts in this case establish that the facility has not at the time of hearing closed.

Iowa Code section 96.3-5 provides:

5. 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.

For the reasons stated herein, the administrative law judge finds that the claimant's request for the Agency to re-compute wage credits because the employer has gone out of business at the factory, establishment or premises at which the claimant was last employed was properly denied as the facility at the time of hearing remains in operation. The claimant may request the Director re-compute wage credits at a future date based upon new information related to the business closing at that time.

**DECISION:**

The representative's decision dated May 23, 2007, reference 04, is affirmed. The claimant's request to have his unemployment insurance claim redetermined as a business closing effective April 8, 2007 is denied.

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Terence P. Nice  
Administrative Law Judge

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Decision Dated and Mailed