

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

**BERTHA J ALLEN HOLDT
LISA L ANDERSON,
TWYLA K HARTMAN,
SARAH E LOCKE,
JANELLE L PAGE, and
HOPE J RAMIREZ,**
Claimants

**APPEAL NO: 14A-UI-04277-DT
APPEAL NO: 14A-UI-04278-DT
APPEAL NO: 14A-UI-04279-DT
APPEAL NO: 14A-UI-04280-DT
APPEAL NO: 14A-UI-04281-DT
APPEAL NO: 14A-UI-04282-DT**

**ADMINISTRATIVE LAW JUDGE
DECISION**

SALVAGE DIRECT INC
Employer

OC: 02/09/14

Claimant: Respondent (3)

Section 96.3-5 – Benefit Calculation Related to Business Closure

STATEMENT OF THE CASE:

Salvage Direct, Inc. (employer) filed appeals on behalf of the named claimants from representatives' decisions denying claim recalculation due to business closure benefits. The above named claimant's decision was issued on April 18, 2014 (reference 01). By hearing notices mailed to the parties on April 30, 2014, hearings were scheduled to be held on May 15; by an order mailed to the parties on May 9, the administrative law judge ordered that the appeals be consolidated for hearing at 9:00 a.m. on May 15. Claimants Holdt, Page, and Anderson participated in the hearing. One other witness, James Holdt, was available on behalf of the employer but did not testify. Claimant Locke and a representative for the employer responded to the hearing notice but were not available when the administrative law judge called their numbers at the time for the consolidated hearing. Based on the evidence, the arguments of the claimants, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Is the claimant eligible for benefits calculated on the basis of a business closing?

FINDINGS OF FACT:

Claimants Holdt, Page, Anderson, and Locke worked in the employer's title department at the employer's Davenport, Iowa corporate headquarters of its auto salvage business. Claimant's Hartman worked as a paralegal at that same office, and Claimant Ramirez worked as a clerk in accounting in that office. The employer's corporate business was sold in about June of 2012 to a new corporate owner, Copart, which has its headquarters in Dallas, Texas. There had originally been about 75 to 100 persons working in the title, legal, and accounting departments at the employer's Davenport headquarters, but after the change in ownership, this number had

dwindled to about 20. The named claimants were laid off as of February 7 because their functions were being transferred to the new corporate headquarters in Texas, or, at least in the case of the title department, directly to the various salvage yards operated by the employer. The corporate office in Davenport was shut down, even though the salvage yards at various locations continued to operate.

REASONING AND CONCLUSIONS OF LAW:

Normally, the maximum total amount of benefits payable to an eligible individual during a benefit year is the lesser of twenty-six times the individual's weekly benefit amount or the total of the claimant's base period wage credits. However, under certain circumstances, if the claimant is laid off due to the claimant's employer going out of business at the factory, establishment, or other premises at which the claimant was last employed, the maximum benefits payable are extended to the lesser of thirty-nine times the claimant weekly benefit amount or the total of the claimant's wage credits. Iowa Code § 96.3-5.

Rule 871 IAC 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.

While there were other sites, specifically the salvage yards themselves, owned by the employer which were sold to the new owner and continued to operate, the former corporate office at which these claimants were employed did not continue to operate as a business at its Davenport premises. Therefore, claimants are entitled to a recalculation of benefits.

DECISION:

The representative's April 18, 2014 (reference 01) decision is modified in favor of the claimant. The claimant was laid off due to a business closure. Recalculation of benefits is allowed.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/css