

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DENISE C OVERSTAKE
Claimant

APPEAL NO: 12A-UI-06203-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

AGRIGENETICS INC/MYCOGEN PLANT SCI
Employer

OC: 02/26/12
Claimant: Appellant (2/R)

Iowa Code § 96.3(5) – Business Closing Benefits

PROCEDURAL STATEMENT OF THE CASE:

The claimant and five other claimants appealed a May 18, 2012, reference 03, determination that denied their request for business closing benefits. Mike Kvidera and Patricia Mathern represented themselves, the claimant, and three other claimants at a June 19 hearing. Daniel de Puydt was also present at the hearing on the claimants' behalf. He is a career consultant the employer hired to help the claimants. The employer did not respond to the hearing notice or participate at the hearing. Based on the evidence, the claimants' arguments, and the law, the administrative law judge grants the claimants' request for business closing benefits.

ISSUE:

Is the claimant eligible to receive business closing benefits?

FINDINGS OF FACT:

The claimant, Patricia Mathern, James Siemens, Mike Kvidera, Traci Heimer, and Rose Kaiser worked for the employer at a seed testing facility or lab. The lab was located at 208 Leo Street in Marshalltown. The claimants tested seeds and did seed analysis work.

The employer decided to relocate the lab to another state. The last day any employee worked at the 208 Leo Street facility was in mid-January 2012. The employer demolished this building. Employees then temporarily worked at the employer's production plant at 1562 Taylor Avenue in Marshalltown. While transferring the work that had been done at the 208 Leo Street facility to another state, employees inputted data at Taylor Avenue facility until February 24, 2012.

The claimant established a claim for benefits during the week of February 26, 2012. The claimant is eligible to receive regular unemployment insurance benefits.

REASONING AND CONCLUSIONS OF LAW:

A claimant may receive additional benefits when laid off from work when the employer goes out of business at the premise where the claimant last worked. Iowa Code § 96.3(5). Going out of business is defined as any factory, establishment, or other premise that the employer closes

and ceases to function as a business. An employer is not considered to have gone out of business 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).

The evidence establishes the claimant was laid off due to a business closing at 208 Leo Street in Marshalltown. The claimant is eligible to receive business closing benefits.

DECISION:

The representative's May 18, 2012 determination (reference 03) is reversed. The claimant was laid off because the employer closed the facility where the claimant worked. The claimant's request for business closing benefits is granted. This matter is **Remanded** to the Claims Section to redetermine the claimant's claim as a business closing.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/kjw