

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

GENE F BEARS

Claimant

APPEAL NO: 06A-UI-10870-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MID-STATES FORD INC

Employer

**OC: 01/29/06 R: 02
Claimant: Appellant (1)**

Section 96.3-5 – Redetermination for Business Closing

STATEMENT OF THE CASE:

Gene F. Bears (claimant) appealed a representative's November 6, 2006 decision (reference 03) that denied his request to have his unemployment insurance claim be redetermined as a business closing. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on November 28, 2006. The claimant participated in the hearing. No one on behalf of Mid-States Ford, Inc. (employer) participated in the hearing. Based on the evidence, the arguments of the claimant, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Should the claimant's request to have his unemployment insurance claim be redetermined as a business closing be granted?

FINDINGS OF FACT:

The claimant established a claim for unemployment insurance benefits during the week of January 29, 2006. The claimant had worked for the employer from January 15, 2005, through January 31, 2006. The employer sold the dealership to another business entity. The new owner took over the business on January 31, 2006. While some former employees continued to work for the new owner, the new owner did not hire the claimant.

The new owner still operates a business at the same location, but the name of the business has changed. The claimant made a request that the Department redetermine his claim as a business closing.

REASONING AND CONCLUSIONS OF LAW:

If a claimant is laid off due to his employer going out of business at the location at which the claimant was last employed, the maximum benefits payable shall be extended to 39 times the claimant's weekly benefit amount, but not to exceed the total of the wage credits accrued to the claimant's account. Iowa Code section 96.3-5. Going out of business means an employer

closed its doors and ceased to function as a business. However, an employer is not considered to have gone out of business when 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 claimant was laid off from work and is qualified to receive unemployment insurance benefits as of January 29, 2006. Based on the regulation, 871 IAC 24.29(2), the claimant's former employer did not go out of business for unemployment insurance purposes. Therefore, the claimant's request to have his unemployment insurance claim be redetermined as a business closing cannot be granted.

DECISION:

The representative's November 6, 2006 decision (reference 03) is affirmed. The claimant's request to have his claim be redetermined as a business closing cannot be granted because the employer sold the business to another employer; and the successor employer continues to operate the business at the same location. For unemployment insurance purposes the employer did not go out of business. This means the claimant is qualified to receive benefits, but the claimant is not eligible for any more benefits during his current benefit year.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs