

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ROBERT K BROWN
Claimant

APPEAL NO. 10A-UI-06971-M

**ADMINISTRATIVE LAW JUDGE
DECISION**

**HOLZHAUER MOTORS LTD
HOLZHAUER MOTORS**
Employer

**OC: 03/22/09
Claimant: Appellant (2)**

Section 96.3-5 – Duration of Benefits (Employer Going Out of Business/Re-computation
of Wage Credits)

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated May 3, 2010, reference 04, which held claimant ineligible for business closing benefits pursuant to Iowa Code section 96.3-5 insurance benefits. After due notice, a hearing was scheduled for and held on August 19, 2010. Claimant participated personally. Employer participated by Daniel Winchell, Owner. Exhibits A, B and One were admitted into evidence.

ISSUE:

The issue presented in this appeal is whether the claimant was laid off due to the employer going out of business and, therefore, is entitled to have the wage credits re-computed.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant was laid off by employer on March 22, 2009 because the business closed and assets sold. Claimant worked for the company Brown Chevrolet and Buick of Cherokee until the assets were sold and the location closed at 1200 South Second Street at Cherokee Iowa. This location went vacant after the sale of all assets. The dealership was then transferred to Holzhauser Motors by General Motors and operated at a different location.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge holds that the claimant was laid off as a result of the employer going out of business and, therefore, is entitled to a re-computation of wage credits. Claimant lost his job at 1200 South Second on March 22, 2009 because the business closed. The business conducted at this location ceased all operations as of March 22, 2009. This is a business permanently closed. Claimant was laid off due to the closing and as such business closing benefits are allowed.

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.

DECISION:

The decision of the representative dated May 3, 2010, reference 04, is reversed. The claimant, is entitled to have the unemployment insurance claim re-determined as a business closing, including a re-computation of wage credits. The claimant's request for such re-determination and re-computation is granted.

Marlon Mormann
Administrative Law Judge

Decision Dated and Mailed

mdm/pjs