

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

ABRAHAM A NELSON
Claimant

FOODS INC
Employer

APPEAL NO. 14A-UI-06450-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 05/18/14
Claimant: Respondent (2)**

Section 96.3-5 – Business Closing
871 IAC 24.29(1) – Business Closing

STATEMENT OF THE CASE:

The employer appealed an unemployment insurance decision dated June 16, 2014, reference 02, that concluded the claimant was eligible for business-closing benefits. A telephone hearing was held on July 15, 2014. The parties were properly notified about the hearing. The claimant participated in the hearing. Rich Lane participated in the hearing on behalf of the employer.

ISSUE:

Is the claimant eligible for business-closing benefits in addition to regular unemployment insurance benefits?

FINDINGS OF FACT:

The claimant worked for the employer in its Ames store from August 12, 2012 to May 17, 2014. He was the assistant manager for the last eight months. Employees, including the claimant, were notified in May 2014 that the Ames stores would be closing in about six to eight weeks.

On May 17 the store director, Rich Lane, told the claimant that if he left work early again that day, he was done working for the employer. The claimant was ill that day and said that he was going home after placing some orders. Lane asked for the claimant's keys and discharged the claimant. At that point, there was no definite date for the store to close. The store ended up closing on June 26, 2014.

The claimant filed a new claim for unemployment insurance benefits effective May 18, 2014.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant was laid off due to a business closing.

Iowa unemployment insurance law provides additional benefits for claimants laid off due to their employer going out of business at the factory, establishment, or other premises at which they were last employed. Iowa Code § 96.3-5. The unemployment insurance rules further provide business-closing benefits to be paid retroactively to a claimant who is temporarily laid off with the expectation of returning to work and is prevented from returning to work because of the employer has gone out of business during the claimant's benefit year. 871 IAC 24.29(1). Finally, the rules define going out of business as any factory, establishment, or other premises of an employer that closes its doors and ceases to function as a business. An employer is not considered to have gone out of business at the factory, establishment, or other premises 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 claimant was discharged and was not laid off due to the store closing. The claimant is eligible for regular unemployment insurance benefits, but not for extra business-closing benefits.

In the employer's appeal, it is argued that the claimant should be denied benefits because he did not transfer to another store. This issue was adjudicated, in a decision issued on June 5, 2014, which was not appealed by the employer.

DECISION:

The unemployment insurance decision dated June 16, 2014, reference 02, is reversed. The claimant is not entitled to extra business-closing benefits. He remains eligible for regular unemployment insurance benefits.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/can