

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**DEBORAH L BENNETT**  
Claimant

**APPEAL 18A-UI-04125-DL-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**GSM – WALKER PRODUCTS LLC**  
Employer

**OC: 03/18/18**  
**Claimant: Appellant (1)**

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Iowa Code § 96.3(5) – Benefit Duration - Business Closing  
Iowa Admin. Code r. 871-24.29(1) and (2) – Business Closing

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the March 29, 2018, (reference 01) unemployment insurance decision that denied the request to redetermine the claim based upon a business closure. The parties were properly notified about the hearing. A telephone hearing was held on April 26, 2018. Claimant participated. Employer GSM did not respond to the hearing notice instruction by registering for the hearing and did not participate.

**ISSUE:**

Is the claimant eligible to have the monetary determination recalculated due to business closing?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed as a full-time licensed hearing aid specialist for GSM located in the Davenport Sam's Club. Her separation date was January 17, 2018, when the hearing aid specialist from GSM in the Moline Sam's Club bumped claimant from her job at the Davenport Sam's Club. Moline Sam's Club notified customers of the impending closing on January 11, 2018. There is no ongoing business activity at the Moline Sam's Club but there is at the Davenport Sam's Club.

**REASONING AND CONCLUSIONS OF LAW:**

The administrative law judge concludes that the claimant was not laid off as a result of a business closure at the location where she worked and, therefore, is not entitled to a redetermination of wage credits.

Iowa Code section 96.3(5)a provides:

**96.3 Payment — determination — duration — child support intercept.**

5. a. *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. (Emphasis added.)

Iowa Admin. Code r. 871-24.29(1) provides:

**871—24.29(96) Business closing.**

**24.29(1)** Whenever an employer *at a factory, establishment, or other premises goes out of business at which the individual was last employed* and is laid off, the individual's account is credited with one-half, instead of one-third, of the wages for insured work paid to the individual during the individual's base period, which may increase the maximum benefit amount up to 39 times the weekly benefit amount or one-half of the total base period wages, whichever is less. This rule also applies retroactively for monetary redetermination purposes during the current benefit year of the individual who is temporarily laid off with the expectation of returning to work once the temporary or seasonal factors have been eliminated and is prevented from returning to work because of the going out of business of the employer within the same benefit year of the individual. This rule also applies to an individual who works in temporary employment between the layoff from the business closing employer and the Claim for Benefits. For the purposes of this rule, temporary employment means employment of a duration not to exceed four weeks. (Emphasis added.)

Iowa Admin. Code r. 871-24.29(2) provides:

**871—24.29(96) Business closing.**

**24.29(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. (Emphasis added.)

The claimant's testimony establishes that the employer did cease business operations in the Sam's Club in Moline, Illinois, but not at the Sam's Club in Davenport, Iowa, where claimant worked. There is no provision in the law for a redetermination of benefits related to an individual being bumped from their job by someone at another business location that did close. Since

there is still ongoing business at the location where claimant worked, the business is not considered to have closed. Therefore, while claimant remains qualified for benefits based upon a layoff from this employer, she is not entitled to a recalculation of benefits.

**DECISION:**

The March 29, 2018, (reference 01) unemployment insurance decision is affirmed. The claimant was not laid off due to a business closure. Recalculation of benefits is denied allowed.

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Dévon M. Lewis  
Administrative Law Judge

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Decision Dated and Mailed

dml/rvs