

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

MICHAEL J WITTRUCK
Claimant

QC TECHNIQUES INC
Employer

APPEAL 16A-UI-09918-LJ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 01/03/16
Claimant: Appellant (1)**

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 a timely appeal from the September 8, 2016, (reference 01) unemployment insurance decision that denied the request to redetermine the claim based upon a business closure. After due notice was issued, a telephone conference hearing was held on September 27, 2016. Claimant Michael J. Wittrock participated, as did witness Dean Hauswrith. Employer QC Techniques, Inc., did not register a telephone number at which to be reached and did not participate in the hearing.

ISSUE:

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

FINDINGS OF FACT:

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: Claimant was separated from the employment on mid-March, 2016. At that time, claimant received a letter stating QC Techniques in Spirit Lake, Iowa, had sold its business to Karl Manufacturing. Claimant was not reporting to work at that time, as he was out on medical leave. Claimant was not offered a new position with Karl Manufacturing, but most of the other drivers were offered an opportunity for re-employment.

Karl Manufacturing now operates in the facility where QC Techniques used to be. Hauswrith works for Karl Manufacturing in Spirit Lake, Iowa. Previously, Hauswrith worked for QC Techniques. Hauswrith obtained employment with Karl Manufacturing after it bought out QC Techniques.

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 he worked and, therefore, he is not entitled to a redetermination of wage credits.

Iowa Code § 96.3(5)a provides:

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...*

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

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.

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

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.) In this case, claimant's former employer, QC Techniques, Inc., transferred the business to another employer and the successor employer continues to operate the

business at the premises where claimant worked. While QC Techniques, Inc., may no longer operate from the facility, this is not a business closure as contemplated by the above-stated law and administrative rules. The administrative law judge concludes that the employer did not close the business in its Spirit Lake, Iowa location. Therefore, while claimant remains qualified for benefits based upon a layoff from this employer, he is not entitled to a recalculation of benefits.

DECISION:

The September 8, 2016, (reference 01) unemployment insurance decision is affirmed. The claimant was not laid off due to a business closure. Recalculation of benefits is denied.

Elizabeth A. Johnson
Administrative Law Judge

Decision Dated and Mailed

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