

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TERRY M CAMPIE
Claimant

APPEAL NO. 09A-UI-04086-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

EMS DETERGENT SERVICES
Employer

**Original Claim: 01/11/09
Claimant: Respondent (2/R)**

Section 96.3-5 – Business Closing

STATEMENT OF THE CASE:

EMS Detergent Services (employer) appealed a representative's March 6, 2009 decision (reference 01) that concluded Terry M. Campie (claimant) was eligible to have his maximum benefit amount 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 April 8, 2009. The claimant participated in the hearing with his attorney, Timothy Grady. Daniel Hays appeared on the employer's behalf with his attorney, Lars Anderson. During the hearing, Employer Exhibit One and Claimant Exhibits A through E were offered and admitted as evidence. Based on the evidence, the arguments of the parties, 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 maximum benefits be redetermined because he was laid off due to a business closing?

FINDINGS OF FACT:

The claimant was the sole shareholder of The Hawkeye Soap Company that did business under EME/New Outlooks, New Outlooks, Century Products, EMS Detergent Services, and Energy Mizer Systems, Inc. (Claimant Exhibit B, C, D and E and Employer Exhibit One.) On December 31, 2008, Hays, as Eastern Iowa Productions LLC, purchased from the claimant his company, The Hawkeye Soap Company, which included intangibles, inventory, and accounts receivable. (See Asset Purchase Agreement Employer Exhibit One.) Hays maintained the business at the same location as the claimant had. The claimant did not work for Hays as an employee after Hays bought the assets of the claimant's business.

The claimant established a claim for benefits during the week of January 11, 2009. The claimant has filed for and received benefits since January 11, 2009.

REASONING AND CONCLUSIONS OF LAW:

The law provides that if a claimant has been laid off due to his employer going out of business, the claimant's account is credited with one-half instead of one-third of the wages for insured work. Iowa Code § 96.3-5, 871 IAC 24.29(1).

Going out of business means any factory, establishment, or other premises of an employer that closes its door and ceases to function as a businesses; 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. 871 IAC 24.29(2).

The claimant sold his business, The Hawkeye Soap Company, to Hays. Hays, the successor employer, continues to operate the business at the same location as the claimant. The business did not close; it merely was sold and transferred to a successor employer, Hays. The claimant is not entitled to have his benefits be redetermined as a business closing.

Since the claimant was the sole shareholder of the business that Hays bought, there is an issue of whether he became unemployed through no fault of his own or is qualified to receive unemployment insurance benefits. Therefore the issue of whether the claimant is qualified to receive benefits as a result of selling his business to Hays is remanded to the Claims Section to determine.

DECISION:

The representative's March 6, 2009 decision (reference 01) is reversed. The claimant was not laid off due to a business closing. Therefore, he is not entitled to have his benefits recalculated as a business closing. An issue of whether the claimant, as the sole shareholder, is qualified to receive unemployment benefits as a result of selling his business, The Hawkeye Soap Company, is remanded to the Claims Section to determine.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/kjw