

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

PATRICIA A VANDERSEE
Claimant

APPEAL NO. 19A-UI-00469-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

NEXTERA ENERGY DUANE ARNOLD LLC
Employer

OC: 12/30/18
Claimant: Appellant (1)

Iowa Code Section 96.3(5) – Duration of Benefits
Iowa Administrative Code Rule 871-24.29 – Business Closing

STATEMENT OF THE CASE:

Patricia Vandersee filed a timely appeal from the January 11, 2019, reference 01, decision that denied her request to have her benefit eligibility redetermined as being based on a layoff pursuant to a business closing. After due notice was issued, a hearing was held on January 31, 2019. Ms. Vandersee participated and presented additional testimony through Jeanne Dykstra.

ISSUE:

Whether the claimant was laid off pursuant to a business closing.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Patricia Vandersee was employed by NextEra Energy Duane Arnold, L.L.C. as a full-time Administrative Associate until December 31, 2018, when she accepted an enhanced retirement package offered by the employer and separated from the employer. Ms. Vandersee performed her work duties at the Duane Arnold Energy Center, a nuclear power plant in Palo, Iowa. The power plant is scheduled to cease producing power no later than September 2020 and then will go through a lengthy decommissioning process expected to last several years. The power plant will continue to employ around 300 workers at the power plant during the lengthy decommissioning process.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code § 96.3(5)a provides:

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.

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

(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.

The weight of the evidence in the record establishes that Ms. Vandersee's separation from the employer was not due to a business closing within the meaning of the law. The facility where Ms. Vandersee worked will continue to produce power for another year. The business location will continue to operate for several years additional as part of the decommissioning process. Because the location has not in fact closed, Ms. Vandersee is not eligible to have her claim for benefits redetermined as being based on a business closing. Ms. Vandersee's request to have her claim redetermined is denied.

DECISION:

The January 11, 2019, reference 01, decision is affirmed. The claimant's separation was not based on a business closing within the meaning of the law. The claimant is not eligible to have her claim for benefits redetermined as being based on a business closing. The claimant's request to have her claim redetermined is denied.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/rvs