

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

AMBER L BERGIN
Claimant

APPEAL NO. 18A-UI-11983-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

BROKER DEALER FINANCIAL SVS CORP
Employer

OC: 10/21/18
Claimant: Respondent (1)

Iowa Code § 96.3-5 – Duration of Benefits (Employer Going Out of Business/Re-computation of Wage Credits)
Iowa Admin. Code r. 871-26.4(2) – Basis for Appeal

STATEMENT OF THE CASE:

Appeal in this matter was set up in error. Employer filed an appeal from a decision of a representative dated December 10, 2018, reference 03, which held claimant ineligible for business closing benefits pursuant to Iowa Code § 96.3-5 insurance benefits. After due notice, a hearing was scheduled for and held on January 3, 2019. Employer participated by Deanne Rowland, a woman who is no longer employed by employer, but wished to speak out for the ability of claimant and other similarly situated employees to receive business closing benefits. Claimant failed to respond to the hearing notice and did not participate. Claimant was deemed by the Appeals Bureau to be the party to have filed the appeal, when in fact employer filed the appeal.

ISSUE:

The issue presented in this appeal is whether the claimant was laid off due to the employer going out of business and, therefore, is entitled to have the wage credits re-computed.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: As claimant was the aggrieved party having not been granted business closing benefits, claimant needed to file the appeal in order for this case to move ahead. Although the Appeals Bureau established this as claimant appeal, it was not. Claimant neither filed the appeal, nor appeared for the hearing.

The representative for employer is not working for the employer. She did state that all employees were dismissed either at the time of claimant on October 19, 2018, or shortly thereafter because employer had sold the assets of the company and terminated the employees.

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.

An appeal from an unemployment insurance decision should include the grounds upon which it is based. Iowa Admin. Code r. 871-26.4(2). In this matter, employer had no basis for appeal as employer cannot appeal an adverse decision against a claimant as the employer has no standing to file the appeal. As such, no decision can be entered in this matter.

DECISION:

The decision of the representative dated December 10, 2018, reference 03 is affirmed. The claimant is not entitled to have the unemployment insurance claim re-determined as a business closing, including a re-computation of wage credits as claimant did not file an appeal and did not appear for the hearing. Employer is not entitled to file an appeal as employer is not the aggrieved party in this matter. This matter will be dismissed and the previous decision entered will remain in effect.

Blair A. Bennett
Administrative Law Judge

Decision Dated and Mailed

bab/scn