

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**SHANE J KENNEDY**  
Claimant

**APPEAL NO: 12A-UI-00050-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**C M WEBB PROPERTY MANAGEMENT**  
Employer

**OC: 06/19/11  
Claimant: Respondent (1)**

Iowa Code § 96.3(5) – Business Closing

**PROCEDURAL STATEMENT OF THE CASE:**

The employer appealed a representative's December 30, 2011 determination (reference 01) that denied the claimant's request for business closing benefits. The claimant participated in the hearing. Clay Webb, the owner, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge concludes the claimant is not eligible for business closing benefits.

**ISSUE:**

Should the claimant's request for business closing benefits be granted?

**FINDINGS OF FACT:**

The employer owned and managed a 54-unit apartment building. The claimant worked about a year for the employer as a maintenance employee at this apartment building. The employer sold the building in mid-June 2011. The new owners of the building maintained the apartments, but did not continue the claimant's employment.

The employer is in the process of closing the property management business or significantly reducing it. On June 19, 2011, the employer laid off the claimant after selling the apartment building where he worked.

**REASONING AND CONCLUSIONS OF LAW:**

Iowa unemployment insurance law provides additional benefits for claimants laid off due to their employer going out of business at the factory, establishment, or other premises at which they were last employed. Iowa Code § 96.3(5). The unemployment insurance rules further provide business-closing benefits are to be paid retroactively to a claimant who is temporarily laid off with the expectation of returning to work and is prevented from returning to work because of the employer has gone out of business during the claimant's benefit year. 871 IAC 24.29(1). Finally, the rules define going out of business as any factory, establishment, or other premises of an employer that closes its doors and ceases to function as a business. An employer is not considered to have gone out of business at the factory, establishment, or other premises if 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 employer sold the apartment building that the employer had been managing and the claimant worked as a maintenance employee. The new owners still maintain the apartment building, but did not continue the claimant's employment as a maintenance employee. For unemployment insurance purposes, since the employer sold the apartment building and the new owner continues to operate at the same location, the business did not close. The claimant was laid off when a new owner took over the apartment building. Therefore, the employer's request that the claimant be granted business closing benefits is denied

**DECISION:**

The representative's December 30, 2011 determination (reference 01) is affirmed. The claimant is not eligible to receive business closing benefits.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/kjw