

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TAMMY J PAYNE
Claimant

APPEAL NO. 17A-UI-05743-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

A & D DATA PROCESSING INC
Employer

OC: 04/02/17
Claimant: Appellant (1)

Iowa Code § 96.3-5 – Duration of Benefits (Employer Going Out of Business/Re-computation of Wage Credits)

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated May 26, 2017, reference 02, 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 June 16, 2017. Claimant participated personally. Employer participated by Dennis Swarthout.

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: Claimant was laid off by employer on March 31, 2017 because employer was downsizing its business in anticipation of ending the business at some point in the future.

Claimant worked as an administrative assistant for employer performing a number of different functions. As employer's main business, providing services to a number of different Pizza Huts under franchise, was diminished as those franchised Pizza Huts were being sold to new owners the need for claimant's services was diminished.

Employer still has an ongoing business for the time being, but with fewer employees. For now, the business has not closed.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge holds that the claimant was not laid off as a result of the employer going out of business and, therefore, is not entitled to a re-computation of wage credits for the time being. Claimant's layoff was in anticipation of a future business closing, and as such, it may be appropriate for claimant, moving forward to refile this matter as a business closing matter.

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.

DECISION:

The decision of the representative dated May 26, 2017, reference 02 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 at this time. Claimant may choose to refile this request upon closing of the business, but as there is no time certain for when the business shall close operations said filing is not appropriate at this time. The claimant's request for such re-determination and re-computation is denied at this time.

Blair A. Bennett
Administrative Law Judge

Decision Dated and Mailed

bab/scn