

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**PATRICIA L HOYT EARLL**  
Claimant

**L A OLSEN AGENCY INC**  
Employer

**APPEAL 18A-UI-01571-LJ-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 12/31/17  
Claimant: Respondent (1R)**

Iowa Code § 96.3(5) – Benefit Duration - Business Closing  
Iowa Admin. Code r. 871-24.29(1) and (2) – Business Closing

**STATEMENT OF THE CASE:**

The employer filed a timely appeal from the February 1, 2018, (reference 01) unemployment insurance decision that allowed the claimant's request to redetermine the claim based upon a business closure. After due notice was issued, a telephone conference hearing was held on February 28, 2018. Claimant did not register a telephone number at which to be reached and did not participate in the hearing. Employer L.A. Olsen Agency, Inc. participated through Lori Olsen-Hopkins, Owner; and Charles Hopkins.

**ISSUE:**

Is the claimant eligible to have the monetary determination recalculated due to business closing?

**FINDINGS OF FACT:**

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: Claimant worked for this employer as the manager of Le Gourmet Kitchenware, a store located in the Valley Junction neighborhood of West Des Moines, Iowa. Claimant was separated from the employment on January 31, 2018, when the business closed its Valley Junction location. Olsen-Hopkins explained that the store maintains an online presence that claimant built. On January 15, Olsen-Hopkins met with claimant to discuss the possibility of her coming back to work for the company and managing the online store. Claimant returned to work on January 19, 2018, and subsequently separated. In February 2018, claimant sent the employer a letter stating she would not accept any offers of work from Olsen-Hopkins.

**REASONING AND CONCLUSIONS OF LAW:**

The administrative law judge concludes that the claimant was laid off as a result of a business closure at the location where she worked and, therefore, is entitled to a redetermination of wage credits.

Iowa Code § 96.3(5)a provides:

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. (Emphasis added.)

Iowa Admin. Code r. 871-24.29(1) provides:

Whenever an employer at a factory, establishment, or other premises goes out of business at which the individual was last employed and is laid off, the individual's account is credited with one-half, instead of one-third, of the wages for insured work paid to the individual during the individual's base period, which may increase the maximum benefit amount up to 39 times the weekly benefit amount or one-half of the total base period wages, whichever is less. This rule also applies retroactively for monetary redetermination purposes during the current benefit year of the individual who is temporarily laid off with the expectation of returning to work once the temporary or seasonal factors have been eliminated and is prevented from returning to work because of the going out of business of the employer within the same benefit year of the individual. This rule also applies to an individual who works in temporary employment between the layoff from the business closing employer and the Claim for Benefits. For the purposes of this rule, temporary employment means employment of a duration not to exceed four weeks.

In this case, the record establishes that Olsen-Hopkins and Hopkins closed their Valley Junction store. While they may maintain an online presence that continues to operate, there was no additional work available at the Valley Junction store for claimant after January 31, 2018. The administrative law judge concludes that the employer did close the business in its West Des Moines, Iowa location.

**DECISION:**

The February 1, 2018, (reference 01) unemployment insurance decision is affirmed. The claimant was laid off due to a business closure. Recalculation of benefits is allowed.

**REMAND:**

The issue of whether claimant received and subsequently refused a suitable offer of work from L.A. Olsen Agency, Inc. is remanded to the Benefits Bureau of Iowa Workforce Development for initial investigation and determination.

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Elizabeth A. Johnson  
Administrative Law Judge

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Decision Dated and Mailed

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