

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MARGARITE E PROKOP**

Claimant

**APPEAL NO: 13A-UI-00810-ST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**JITTERS**

Employer

**OC: 01/06/13**

**Claimant: Respondent (1)**

Section 96.3-5 – Business Closing  
871 IAC 24.29(2) – Definition of Closing

**STATEMENT OF THE CASE:**

The employer appealed a department decision dated January 18, 2013, reference 02, that held claimant was eligible for business closing benefits due to her layoff effective January 6, 2013. A telephone hearing was held on February 21, 2013. The claimant, and former employee, Barbara A Jordan, participated. Sarah Kragthorpe, Owner, participated for the employer.

**ISSUE:**

Whether the claimant was discharged for misconduct in connection with employment.

**FINDINGS OF FACT:**

The administrative law judge having heard the witness testimony and having considered the evidence in the record finds: The claimant worked for the employer full time from September 19, 2012 to January 5, 2013. She was laid off for lack when the business where she worked closed on January 6. The employer has a separate Jitters business location on Floyd Boulevard that did not close. The employer did not offer employment to claimant at that location.

**REASONING AND CONCLUSIONS OF LAW:**

Iowa Code Section 96.3-5 provides:

5. 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.

871 IAC 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 administrative law judge concludes the claimant was laid off for lack of work due to a business permanently closed on January 6, 2013.

The business where claimant last worked closed that meets the definition of a business closing regardless of the employer having another business under the same name at a separate location.

**DECISION:**

The department decision dated January 18, 2013, reference 02, is affirmed. The claimant was laid off effective January 6, 2013 due to a business closing. Business closing benefits are allowed, provided the claimant is otherwise eligible.

---

Randy L. Stephenson  
Administrative Law Judge

---

Decision Dated and Mailed

rls/tll