

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RUSSELL P MILLER
Claimant

APPEAL NO: 14A-UI-03541-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

MARRS WEALTH MANAGEMENT LLC
Employer

OC: 03/02/14
Claimant: Respondent (6)

Section 96.3-5 – Business Closing

STATEMENT OF THE CASE:

The employer appealed a department decision dated April 1, 2014, reference 02, that allowed claimant's request for business closing benefits effective March 2, 2014. A telephone hearing was held on April 23, 2014. The claimant participated. Judy Mersman, Client Services Director, and Craig Marrs, Principal, participated for the employer.

ISSUE:

Whether claimant was laid-off due to an employer business closing.

FINDINGS OF FACT:

The administrative law judge having considered the stipulation of the evidence in the record finds: The claimant never worked for this employer. The parties agree this decision should be vacated.

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.

The administrative law judge concludes claimant never worked for the employer and the decision he was laid-off for lack of work should be vacated.

DECISION:

The department decision dated April 1, 2014 reference 02, is vacated and set aside. The claimant never worked for the employer.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/pjs