IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS

HOLLY A DONALDSON
Claimant

KUM & GO LC
Employer

APPEAL NO. 11A-UI-10176-AT

ADMINISTRATIVE LAW JUDGE DECISION

OC: 07/10/11
Claimant: Appellant (2)

Section 96.3-5 – Computation of Benefits

STATEMENT OF THE CASE:

Holly A. Donaldson filed a timely appeal from an unemployment insurance decision dated July 28, 2011, reference 01, that denied her request to recalculate her benefits using the business closure provisions of the statute. After due notice was issued, a telephone hearing was held August 29, 2011, with Ms. Donaldson participating. Her former employer, Kum & Go, did not participate in the hearing.

ISSUE:

Is the claimant unemployed as the result of a business closure.

FINDINGS OF FACT:

Holly A. Donaldson was last employed at a Kum & Go store located at 242 East Main in Cherokee, Iowa. That store and another located in Cherokee were purchased by Casey's General Stores. The store at which Ms. Donaldson was employed has been boarded up. "No Trespassing" signs have been placed on the property.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.3-5 allows the recomputation of a claimant's benefits if the individual's last employer has gone out of business at the location at which the claimant last worked. Continued operation of the business by a new owner at the same location is not considered a business closure. See 871 IAC 24.29.

The evidence in this record establishes that business activity has ceased at 242 East Main in Cherokee, Iowa—the location at which the claimant last worked. Recalculation of benefits using the business closure provisions of the statute is appropriate.

DECISION:

The unemployment insurance decision dated July 28, 2011, reference 01, is reversed. The claimant's unemployment insurance benefits shall be recalculated using the business closure provisions of the statute.

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Dan Anderson
Administrative Law Judge

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Decision Dated and Mailed

kjw/kjw