

**IN THE IOWA ADMINISTRATIVE HEARINGS DIVISION
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JACOB D DUNN
Claimant

FAIRCAST INC
Employer

APPEAL NO. 24A-UI-03634-JT-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 02/25/24
Claimant: Respondent (2R)**

Iowa Code Section 96.3(5) – Duration of Benefits
871 IAC 24.29 – Business Closing

STATEMENT OF THE CASE:

On April 8, 2024, the employer filed a timely appeal from the April 3, 2024 (reference 01) decision that allowed benefits to the claimant, provided he met all other eligibility requirements, that held employer's account could be charged for benefits, and that held the claimant's maximum benefit amount would be redetermined effective February 25, 2024 as being based on a layoff pursuant to a business closing. After due notice was issued, a hearing was held on April 22, 2024. Jacob Dunn (claimant) did not comply with the hearing notice instructions to call the designated toll-free number at the time of the hearing and did not participate. Amber Moats represented the employer. Exhibit 1 was received into evidence. The administrative law judge took official notice of the following agency administrative records: DBRO, KCCO, WAGEA, and NMRO.

ISSUE:

Whether the claimant was laid off employment with Faircast, Inc. (#594298) pursuant to a business closing.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds:

Jacob Dunn established an original claim for benefits that was effective February 25, 2024. The claimant most recently was employed by Faircast, Inc. (#594298) during the first quarter of 2023. The claimant returned to perform additional work for Faircast during the first quarter of 2024, but did so as a temporary worker employed by Temp Associates – Iowa, Inc. (#261909). The claimant performed the work at the Faircast foundry located at 905 West Depot Avenue in Fairfield, Iowa. The claimant's most recent work at the Faircast facility ended when his temporary employment work assignment ended. Faircast has entered into an agreement to sell the 905 West Depot Avenue facility to another business entity. The location has not closed.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 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 sixteen 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 twenty-six times the individual's weekly benefit amount, but not to exceed the total of the wage credits accrued to the individual's account.

Iowa Admin. Code r. 871-24.29(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 claimant was not laid off from Faircast, Inc. due to a business closing. Indeed, Temp Associates – Iowa, Inc. (#261909), rather than Faircast, Inc. (594298), was the claimant's most recent employer. The location where the claimant performed work has not closed but is in the process of being sold to a new owner who will take over operations at the same location. The claimant is not eligible to have his benefit eligibility redetermined as being based on a layoff pursuant to a business closing. This matter will be remanded to Iowa Workforce Development Benefits Bureau for issuance of a notice of claim to Temp Associates – Iowa, Inc. (#261909) and for correction of the record regarding the name and account number of the most recent employer.

DECISION:

The April 3, 2024 (reference 01) decision is reversed. The claimant was not laid off from Faircast, Inc. due to a business closing. The claimant is not eligible to have his benefit eligibility redetermined as being based on a layoff pursuant to a business closing.

REMAND:

This matter is REMANDED to Iowa Workforce Development Benefits Bureau for issuance of a notice of claim to Temp Associates – Iowa, Inc. (#261909) and for correction of the record regarding the name and account number of the most recent employer. See WAGEA.

A handwritten signature in cursive script that reads "James E. Timberland". The signature is written in dark ink on a light gray rectangular background.

James E. Timberland
Administrative Law Judge

April 30, 2024
Decision Dated and Mailed

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APPEAL RIGHTS. If you disagree with the decision, you or any interested party may:

1. Appeal to the Employment Appeal Board within fifteen (15) days of the date under the judge's signature by submitting a written appeal via mail, fax, or online to:

**Employment Appeal Board
6200 Park Ave
Des Moines, Iowa 50321
Fax: (515)281-7191
Online: eab.iowa.gov**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

AN APPEAL TO THE BOARD SHALL STATE CLEARLY:

- 1) The name, address, and social security number of the claimant.
- 2) A reference to the decision from which the appeal is taken.
- 3) That an appeal from such decision is being made and such appeal is signed.
- 4) The grounds upon which such appeal is based.

An Employment Appeal Board decision is final agency action. If a party disagrees with the Employment Appeal Board decision, they may then file a petition for judicial review in district court.

2. If no one files an appeal of the judge's decision with the Employment Appeal Board within fifteen (15) days, the decision becomes final agency action, and you have the option to file a petition for judicial review in District Court within thirty (30) days after the decision becomes final. Additional information on how to file a petition can be found at Iowa Code §17A.19, which is online at <https://www.legis.iowa.gov/docs/code/17A.19.pdf>.

Note to Parties: YOU MAY REPRESENT yourself in the appeal or obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds.

Note to Claimant: It is important that you file your weekly claim as directed, while this appeal is pending, to protect your continuing right to benefits.

SERVICE INFORMATION:

A true and correct copy of this decision was mailed to each of the parties listed.

DERECHOS DE APELACIÓN. Si no está de acuerdo con la decisión, usted o cualquier parte interesada puede:

1. Apelar a la Junta de Apelaciones de Empleo dentro de los quince (15) días de la fecha bajo la firma del juez presentando una apelación por escrito por correo, fax o en línea a:

**Employment Appeal Board
6200 Park Ave
Des Moines, Iowa 50321
Fax: (515)281-7191
Online: eab.iowa.gov**

El período de apelación se extenderá hasta el siguiente día hábil si el último día para apelar cae en fin de semana o día feriado legal.

UNA APELACIÓN A LA JUNTA DEBE ESTABLECER CLARAMENTE:

- 1) El nombre, dirección y número de seguro social del reclamante.
- 2) Una referencia a la decisión de la que se toma la apelación.
- 3) Que se interponga recurso de apelación contra tal decisión y se firme dicho recurso.
- 4) Los fundamentos en que se funda dicho recurso.

Una decisión de la Junta de Apelaciones de Empleo es una acción final de la agencia. Si una de las partes no está de acuerdo con la decisión de la Junta de Apelación de Empleo, puede presentar una petición de revisión judicial en el tribunal de distrito.

2. Si nadie presenta una apelación de la decisión del juez ante la Junta de Apelaciones Laborales dentro de los quince (15) días, la decisión se convierte en acción final de la agencia y usted tiene la opción de presentar una petición de revisión judicial en el Tribunal de Distrito dentro de los treinta (30) días después de que la decisión adquiriera firmeza. Puede encontrar información adicional sobre cómo presentar una petición en el Código de Iowa §17A.19, que está en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf>.

Nota para las partes: USTED PUEDE REPRESENTARSE en la apelación u obtener un abogado u otra parte interesada para que lo haga, siempre que no haya gastos para Workforce Development. Si desea ser representado por un abogado, puede obtener los servicios de un abogado privado o uno cuyos servicios se paguen con fondos públicos.

Nota para el reclamante: es importante que presente su reclamo semanal según las instrucciones, mientras esta apelación está pendiente, para proteger su derecho continuo a los beneficios.

SERVICIO DE INFORMACIÓN:

Se envió por correo una copia fiel y correcta de esta decisión a cada una de las partes enumeradas.