

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ANDREA M WILLEY
Claimant

APPEAL NO. 11A-UI-05168-M2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

RMG DIRECT INC
Employer

OC: 02/27/11
Claimant: Respondent (1)

Section 96.3-5 – Business Closing

STATEMENT OF THE CASE:

Employer filed an appeal from a decision of a representative dated April 8, 2011, reference 03, which held claimant eligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on May 12, 2011. Claimant participated. Employer participated by Niko Simone.

ISSUE:

The issue in this matter is whether claimant was laid off by a business closing.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on or about February 25, 2011 at the Manchester, Iowa location when she was laid off due to a permanent closing of that location. The claimant lives in Manchester.

On or about January 26, 2011 she was offered the opportunity to go to other locations of the employer. She did not accept effective February 11, 2011. Claimant did not have a valid claim for benefits on file at that time. The other locations were too great a distance and would have created substantial personal hardship.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code § 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 24.26(1) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(1) A change in the contract of hire. An employer's willful breach of contract of hire shall not be a disqualifiable issue. This would include any change that would jeopardize the worker's safety, health or morals. The change of contract of hire must be substantial in nature and could involve changes in working hours, shifts, remuneration, location of employment, drastic modification in type of work, etc. Minor changes in a worker's routine on the job would not constitute a change of contract of hire.

Claimant was laid off due to a business location closing effective February 25, 2011.

DECISION:

The decision of the representative dated April 8, 2011, reference 03, is affirmed. Unemployment insurance benefits calculated on the basis of a business closing are allowed, provided claimant is otherwise eligible.

Stan McElderry
Administrative Law Judge

Decision Dated and Mailed

srm/pjs