

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JIM L RIFE
Claimant

APPEAL NO. 10A-UI-06127-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

AAA PICK-UP SERVICE
Employer

**Original Claim: 11/08/09
Claimant: Appellant (1)**

Section 96.3(5) – Duration of Benefits

STATEMENT OF THE CASE:

Jim Rife filed an appeal from a representative's decision dated April 16, 2010, reference 04, which denied his request to have his claim re-determined as a business closing. After due notice was issued, a hearing was held by telephone on June 8, 2010. Mr. Rife participated personally. The employer did not respond to the notice of hearing.

ISSUE:

At issue in this matter is whether Mr. Rife is unemployed as a result of his employer going out of business at the location where he was last employed.

FINDINGS OF FACT:

Having heard the testimony and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Rife was employed by AAA Pick-Up Service for approximately seven years ending in November of 2009. He worked full-time performing residential garbage collection in Missouri Valley, Iowa. The employer also provided roll-off containers that could be left at locations such as construction sites and retrieved at later dates. The business, owned by John Finken, was located at 123 Lincoln Highway in Missouri Valley, Iowa.

In November of 2009, the employer sold its three garbage trucks to Papillion Sanitation. The employer also sold the trade name, AAA Pick-Up Service, to Papillion Sanitation, which continued to provide residential service to Missouri Valley. Mr. Finken continued to provide roll-off services at the Lincoln Highway location after the garbage trucks were sold. Because AAA Pick-Up Service was no longer available as a trade name, the business is now known as J D Containers.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge must determine if Mr. Rife's former employer went out of business at the location where he last worked, 123 Lincoln Highway in Missouri Valley. The term "going out of business" means an entity closes its doors and ceases to function as a business.

871 IAC 24.29(2). Mr. Finken did not sell his entire business in November; he only sold that portion related to residential garbage collection. He continued to provide roll-off services from the same location where Mr. Rife had worked. The name change for the business was due only to the fact that AAA Pick-Up Service was no longer available as a trade name.

The fact that the owner sold off part of his business operation and continued the remainder under a different name is not sufficient to establish a business closing within the intent of the law where he continued the remainder at the same location. For this reason, the request to have the claim re-determined as a business closing is denied.

DECISION:

The representative's decision dated April 16, 2010, reference 04, is hereby affirmed. Mr. Rife's request to have his claim re-determined as a business closing is denied.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/kjw