

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JACK BARBOUR**

Claimant

**APPEAL NO. 08A-UI-02395-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**MITCHELL TRANSMISSION**

Employer

**OC: 08/19/07 R: 02  
Claimant: Appellant (2)**

Section 96.3-5 – Business Closing

**STATEMENT OF THE CASE:**

Jack Barbour (claimant) appealed a representative's February 29, 2008 decision (reference 01) that denied his request to have his claim be redetermined as a business closing. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on March 25, 2008. The claimant participated in the hearing. No one responded to the hearing notice on the employer's behalf. No one participated in the hearing on the employer's behalf. Based on the evidence, the arguments of the claimant, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

Should the claimant's request to have his claim be redetermined as a business closing be granted or denied?

**FINDINGS OF FACT:**

The claimant worked several years for the employer. In January 2007, the employer gave the claimant a week's notice that his job was ending because the employer was closing the Ames business. The employer also had a business located in Des Moines. When Polk County officials bought land where the employer's Des Moines business was located, the employer closed both business locations, Des Moines and Ames.

The claimant learned later the employer sold the business to Aamco. While the Ames building where the claimant worked may be leased, Aamco is not located in this building. A business similar to what the claimant had been doing at the Ames location is not presently operating from the Ames location. The claimant has not worked for any other employer after his employment ended with the employer.

**REASONING AND CONCLUSIONS OF LAW:**

Iowa unemployment insurance law provides additional benefits for claimants laid off due to their employer going out of business at the factory, establishment, or other premises at which they were last employed. Iowa Code § 96.3-5. The unemployment insurance rules further provide

business-closing benefits to be paid retroactively to a claimant who is temporarily laid off with the expectation of returning to work and is prevented from returning to work because of the employer has gone out of business during the claimant's benefit year. 871 IAC 24.29(1). Finally, the rules define going out of business as any factory, establishment, or other premises of an employer that closes its doors and ceases to function as a business. An employer is not considered to have gone out of business at the factory, establishment, or other premises if the employer sells or otherwise transfers the business to another employer and the successor employer continues to operate the business. 871 IAC 24.29(2).

In this case, at the time the claimant was laid off, the employer closed the Ames business permanently. The employer later sold the business and the Ames building may be leased, but Aamco is not operating a business from the Ames location. Based on the facts in this case, the claimant's request to have his claim redetermined as a business closing is granted.

**DECISION:**

The representative's February 29, 2008 decision (reference 01) is reversed. The claimant was laid off as a result of a business closing. Therefore, his request to have his claim redetermined as a business closing is granted.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/css