

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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**MARIA HUTCHCRAFT**  
Claimant

**US FOODSERVICE INC**  
Employer

**APPEAL 14A-UI-02401-LT**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 05/12/13**  
**Claimant: Appellant (1)**

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Iowa Code § 96.3(5) – Benefit Duration - Business Closing  
Iowa Admin. Code r. 871-24.29(1) and (2) – Business Closing

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the February 26, 2014, (reference 03) decision that denied the request to redetermine the claim based upon a business closure. After due notice was issued, a telephone conference hearing was held on March 26, 2014. Claimant participated. Employer participated through Skeet Morgan.

**ISSUE:**

Is the claimant eligible to have the monetary determination recalculated due to business closing?

**FINDINGS OF FACT:**

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full-time as an accountant and was separated from employment on May 8, 2013, due to a lack of work. When Hawkeye Food Service was sold to US Foodservice her job at the 3550 2nd Street, Coralville, Iowa, office was eliminated but there remains ongoing business activity at that location.

**REASONING AND CONCLUSIONS OF LAW:**

The administrative law judge concludes that the claimant was laid off due to a lack of work, but not as a result of a business closure at the location where she worked and, therefore, is not entitled to a redetermination of wage credits.

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.

Iowa Admin. Code r. 871-24.29(1) and (2) provide:

Business closing.

(1) Whenever an employer at a factory, establishment, or other premises goes out of business at which the individual was last employed and is laid off, the individual's account is credited with one-half, instead of one-third, of the wages for insured work paid to the individual during the individual's base period. This rule also applies retroactively for monetary redetermination purposes during the current benefit year of the individual who is temporarily laid off with the expectation of returning to work once the temporary or seasonal factors have been eliminated and is prevented from returning to work because of the going out of business of the employer within the same benefit year of the individual.

(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 administrative law judge concludes that the employer sold, but did not close, the business in its Coralville, Iowa location. Since there is still an ongoing business at that location, the business is not considered to have closed. Therefore, while claimant remains qualified for benefits based upon a layoff from this employer, she is not entitled to a recalculation of benefits.

**DECISION:**

The February 26, 2014, (reference 03) decision is affirmed. The claimant was not laid off due to a business closure. Recalculation of benefits is denied.

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Dévon M. Lewis  
Administrative Law Judge

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Decision Dated and Mailed

dml/pjs