

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MICHAEL J REED**  
Claimant

**APPEAL NO: 06A-UI-16588-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**ACCURATE MECHANICAL CO INC**  
Employer

**OC: 07/05/09**  
**Claimant: Appellant (1)**

Section 96.3-5 - Business Closing

**STATEMENT OF THE CASE:**

The claimant appealed a representative's October 21, 2009 decision (reference 01) that denied his request for business closing benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on December 10, 2009. The claimant participated in the hearing with his witness, Jeff Marshal. The employer did not respond to the hearing notice or participate in the hearing. 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:**

Is the claimant eligible to receive business closing benefits?

**FINDINGS OF FACT:**

On July 3, 2009, the employer told the claimant and other employees the business was closing that day. The employer told employees to leave the trucks they drove because the trucks belonged to the bank. After July 3, the claimant heard the employer hired back a couple of employees and is still in business.

**REASONING AND CONCLUSIONS OF LAW:**

The law provides that if a claimant has been laid off due to his employer going out of business, the claimant's account is credited with one-half instead of one-third of the wages for insured work. Iowa Code § 96.3-5, 871 IAC 24.29(1).

Going out of business means any factory, establishment, or other premises of an employer that closes its door and ceases to function as a businesses; 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. 871 IAC 24.29(2).

The claimant is not entitled to have his benefits be redetermined as a business closing. The facts do not establish the employer actually closed its doors and ceased to function as a business. The facts indicate the employer laid off many employees, but has not at this time closed the business.

**DECISION:**

The representative's October 21, 2009 decision (reference 01) is affirmed. The claimant was laid off from work, but is not entitled to business closing benefits because the employer has not as of the date of the hearing ceased to function as a business.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/css