

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TINA M PARKS

Claimant

APPEAL NO. 07A-UI-07404-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**RANDSTAD GENERAL PARTNER (UC LLC)
RANDSTAD INHOUSE SERVICES LP**

**OC: 04/29/07 R: 02
Claimant: Appellant (1)**

Section 96.3(5) – Duration of Benefits
871 IAC 24.29 – Business Closing

STATEMENT OF THE CASE:

Tina Parks filed a timely appeal from the June 18, 2007, reference 02, decision that denied her request to have benefits redetermined as based on lay-off due to a business closing. After due notice was issued, a hearing was held on July 16, 2007. Ms. Parks participated. The employer waived its appearance. Department Exhibit D-1, Form 60-0240, was received into evidence.

ISSUE:

Whether the claimant was laid off pursuant to a business closing.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Tina Parks was employed by Randstad Inhouse Services temporary employment agency as a full-time customer service consultant at the Maytag call center on 4th Street North in Newton. Ms. Parks commenced her employment on November 7, 1985. Randstad laid off Ms. Parks and other call center employees effective April 27, 2007. Randstad laid off additional call center employees at the end of May 2007. Ms. Parks' layoff followed Maytag's sale to Whirlpool. Whirlpool relocated the call center function to Michigan and Tennessee. Iowa Telecom purchased the building where Ms. Parks had worked and continues to operate a business at that site. Iowa Telecom also leases space at the site to one or more businesses. Randstad Inhouse Services had no other assignments available in Iowa. However, Randstad did not go out of business.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 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 24.29(2) provides:

(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 evidence establishes that Ms. Parks was laid off, but not as the result of a business closing as defined by the applicable administrative rule. Iowa Telecom continues to operate a business on the premises at which Ms. Parks was employed. The employer, Randstad, did not go out of business.

DECISION:

The Agency representative's decision dated June 18, 2007, reference 02, is affirmed. The claimant was not laid off due to a business closing as defined by the administrative rule. Benefits should not be redetermined.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

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