

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JOHN L GIBSON**  
Claimant

**APPEAL NO. 07A-UI-03335-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**MASTER MANUFACTURING COMPANY**  
Employer

**OC: 12/31/06 R: 01  
Claimant: Appellant (2)**

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

**STATEMENT OF THE CASE:**

John Gibson filed a timely appeal from the March 26, 2006, reference 01, decision that denied his request to have his benefits redetermined as being based on a business closing. After due notice was issued, a hearing was held on April 17, 2007. Mr. Gibson did not respond to the hearing notice instructions to provide a telephone number for the hearing and did not participate. Milton Glazer, owner and President, represented the employer. Employer's Exhibit One and Department Exhibit D-1, Form 60-0240, were 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: John Gibson was employed by Master Manufacturing as a full-time welder/assembler until December 31, 2006, when he was laid off. Prior to being laid off, Mr. Gibson had worked at the employer's rented facility located at 615 Water in Sioux City. In conjunction with the layoff, the employer closed its facility at the 615 Water location, vacated that property, and moved the inventory and equipment to Tennessee. The employer now utilizes an office located at 505 – 5th Street in Sioux City, but is no longer engaged in manufacturing.

**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 indicates that the employer has in fact closed its doors at the 615 Water location where Mr. Gibson worked and has ceased functioning as a manufacturing business. The evidence indicates that while the inventory and equipment was sold, the new owner of that inventory and equipment does not operate a business at the 615 Water location.

Based on the evidence in the record and application of the law cited above, the administrative law judge concludes that Mr. Gibson's unemployment insurance benefits should be redetermined as based on a business closing.

**DECISION:**

The claim's representative's decision dated March 26, 2006, reference 01, is reversed. The claimant was laid off due to a business closing and his benefits should be redetermined accordingly.

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James E. Timberland  
Administrative Law Judge

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Decision Dated and Mailed

jet/pjs