

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**CAROL A GOWER**  
Claimant

**APPEAL NO: 15A-UI-03706-DT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**STEWART MEMORIAL COMM HOSP ASSN**  
Employer

**OC: 12/07/14**

**Claimant: Appellant (1)**

Section 96.3-5 – Benefit Calculation Related to Business Closure

**STATEMENT OF THE CASE:**

Carol A. Gower (claimant) appealed a representative's March 10, 2015 decision (reference 01) that denied her request to have her unemployment insurance benefit eligibility recalculated as due to a business closure. Hearing notices were mailed to the parties' last known addresses of record for a telephone hearing to be held at 2:00 a.m. on April 29, 2015. A review of the Appeals Section's conference call system indicates that the claimant/appellant failed to respond to the hearing notice and provide a telephone number at which she could be reached for the hearing and did not participate in the hearing. The employer responded to the hearing notice and indicated that Holly Espenhover would participate as the employer's representative. When the administrative law judge contacted the employer for the hearing, Ms. Espenhover agreed that the administrative law judge should make a determination based upon a review of the available information. Based on a review of the available information 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 for benefits calculated on the basis of a business closing?

**FINDINGS OF FACT:**

The claimant started working for the employer on or about October 1, 2009, working for a particular doctor at the employer's clinic location in Lake City, Iowa. Her last day of work was on or about November 13, 2014. She was laid off as of that date because the particular doctor with whom she had worked was separated from the employer. The employer continued to operate the Lake City clinic, but there was no position available for the claimant.

**REASONING AND CONCLUSIONS OF LAW:**

Normally, the maximum total amount of benefits payable to an eligible individual during a benefit year is the lesser of twenty-six times the individual's weekly benefit amount or the total of the claimant's base period wage credits. However, under usual circumstances, if the claimant is laid off due to the claimant's employer going out of business at the factory, establishment, or

other premises at which the claimant was last employed, the maximum benefits payable are extended to the lesser of thirty-nine times the claimant weekly benefit amount or the total of the claimant's wage credits. Iowa Code § 96.3-5.

Rule 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 claimant was laid off for lack of work due to her job being eliminated due to the separation of the doctor with whom she had worked. The employer continues to operate at the Lake City location, albeit without the claimant. Therefore, while the claimant is entitled to regular separation benefits, she is not entitled to a recalculation of benefits as due to a business closure.

**DECISION:**

The representative's March 10, 2015 (reference 01) decision is affirmed. The claimant was laid off, but not due to a business closure. Recalculation of benefits is denied.

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Lynette A. F. Donner  
Administrative Law Judge

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Decision Dated and Mailed

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