

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**ROGER C VOGEL**  
Claimant

**IPSCO TUBULARS INC**  
Employer

**APPEAL NO. 19A-UI-06795-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 08/18/19**  
**Claimant: Appellant (1)**

Iowa Code Section 96.3(5) – Duration of Benefits  
Iowa Admin. Code r. 871-24.29 – Business Closing

**STATEMENT OF THE CASE:**

Roger Vogel filed a timely appeal from the August 22, 2019, reference 01, decision that denied his request to have his claim for benefits redetermined as being based on a layoff pursuant to a business closing. After due notice was issued, a hearing was held on September 19, 2019. Mr. Vogel participated. Kathy Borkgren represented the employer.

**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: Roger Vogel was employed by IPSCO Tubulars, Inc. as a full-time material handler/heavy equipment operator until August 19, 2019, when the employer laid him off. Mr. Vogel worked at the employer's facility in Camanche, Iowa. The employer laid off 82 other employees at the same time, but retained 38 employees, who continued to work from the same location. The employer continued to operate from the same location with the reduced workforce.

**REASONING AND CONCLUSIONS OF LAW:**

Iowa Code section 96.3(5)(a) provides:

- a. 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(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 Mr. Vogel was indeed laid off effective August 19, 2019, but that the layoff was not based on a business closing. Instead, the employer continues to operate from the same location with a reduced workforce. Mr. Vogel is not eligible to have his unemployment insurance benefit eligibility redetermined as being based on a layoff pursuant to a business closing.

**DECISION:**

The August 22, 2019, reference 01, decision is affirmed. The claimant was laid off effective August 19, 2019, but the layoff was not due to a business closing. The claimant is not eligible to have his unemployment insurance benefit eligibility redetermined as being based on a layoff pursuant to a business closing.

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James E. Timberland  
Administrative Law Judge

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Decision Dated and Mailed

jet/rvs