

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CHRISTINA M HALLBERG
Claimant

APPEAL NO. 15A-UI-04718-JT-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

ARCHITECTURAL WALL SYSTEMS CO
Employer

OC: 01/11/15
Claimant: Appellant (1)

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

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the April 13, 2015, reference 01, decision that concluded her separation from employment was not a layoff pursuant to a business closing. After due notice was issued, a hearing was held on May 28, 2015. Claimant participated. Mike Cunningham 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: The claimant was employed by Architectural Wall Systems Company as a full-time controller until she separated from that employer effective December 31, 2014; in connection with the employer's sale of its business to a different business entity. Until April 1, 2015, the new owner continued to operate at the same location where the claimant had performed her duties. The claimant commenced a brief period of employment with the new employer.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code § 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 re-compute 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 claimant's separation from the employment with Architectural Wall Systems did not occur in the context of a business closing within the meaning of the law. Accordingly, the claimant is not eligible to have her benefit eligibility re-determined as being based on a layoff *pursuant to a business closing*.

DECISION:

The April 13, 2015, reference 01, decision is affirmed. The December 31, 2014 separation was not pursuant to a business closing within the meaning of the law. The claimant is not eligible to have her benefit eligibility re-determined as being based on a layoff *pursuant to a business closing*.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

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