

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**LOU ANN L REYES**

Claimant

**APPEAL NO. 07A-UI-07820-MT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CONSOLIDATED UTILITY SERVICES INC  
GREAT PLAINS LOCATING SERVICE INC**

Employer

**OC: 07/22/07 R: 04  
Claimant: Appellant (1)**

Section 96.3-5 – Duration of Benefits (Employer Going Out of Business/Re-computation of Wage Credits)

**STATEMENT OF THE CASE:**

Claimant filed an appeal from a decision of a representative dated August 1, 2007, reference 01, which held claimant ineligible for business closing benefits pursuant to Iowa Code section 96.3-5 insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on August 29, 2007. Claimant participated personally. Employer participated by Denise McIntosh, Human Resource Manager.

**ISSUE:**

The issue presented in this appeal is whether the claimant was laid off due to the employer going out of business and, therefore, is entitled to have the wage credits re-computed.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and having considered all of the evidence in the record, finds: Claimant was laid off by employer on June 22, 2007, because the dispatch functions of the office were being relocated to Kansas. Five office employees were laid off due to job elimination. Seventeen field employees remained in employment. A manager took over the office location at 311 15th Street, Bettendorf, Iowa. The company is still doing business at that location. Only the dispatch function was eliminated.

**REASONING AND CONCLUSIONS OF LAW:**

The administrative law judge holds that the claimant was not laid off as a result of the employer going out of business and, therefore, is not entitled to a re-computation of wage credits. The company is still conducting business at the same location where claimant was employed. While it has a reduced staff, it is none the less still in business.

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.

**DECISION:**

The decision of the representative dated August 1, 2007, reference 01, is affirmed. The claimant's request for such re-determination and re-computation is denied.

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Marlon Mormann  
Administrative Law Judge

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Decision Dated and Mailed

mdm/kjw