

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**DOUG L FALLGATTER**  
Claimant

**APPEAL NO. 19A-UI-09802-B2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**FALLGATTERS MARKETS**  
Employer

**OC: 11/10/19**  
**Claimant: Appellant (1)**

Iowa Code § 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 December 2, 2019, reference 01, which held claimant ineligible for business closing benefits pursuant to Iowa Code § 96.3-5 insurance benefits. After due notice, a hearing was scheduled for and held on January 29, 2020. Claimant participated personally and with attorney Douglas Krull. Employer failed to respond to the hearing notice and did not participate.

**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 considered all of the evidence in the record, finds: Claimant sold the business he owned to another party in November, 2019 in order to avoid foreclosure on the business. The new owner bought all of the assets of the business, and retained all employees, with the exception of claimant and his daughter. On the date of sale, claimant's employment was ended.

**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.

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.

In this matter, claimant made a business decision on his own to sell his business. The new owner continues the operation in the same manner as it had existed with all of the same employees, save claimant and his daughter.

Claimant's argument that he is entitled to extra benefits in this matter removes the fact that it was claimant's decision on this sale, and works contrary to the intent of the business closing extension – for those people who were pushed out of work as a group through an employer's closing of a business. It is thought that those people might have a more difficult time getting new employment. Here, a business decision was made by the claimant to sell his company. There was no great potential harm to the local economy the multiple people were thrown out of work. The business continues under a new name and new management, but selling the same items in the same location as previously. Business closing benefits are denied.

**DECISION:**

The decision of the representative dated December 2, 2019, reference 01 is affirmed. The claimant, is not entitled to have the unemployment insurance claim re-determined as a business closing, including a re-computation of wage credits. The claimant's request for such re-determination and re-computation is denied.

---

Blair A. Bennett  
Administrative Law Judge

---

Decision Dated and Mailed

bab/scn