

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JOY A SPEIR
Claimant

APPEAL NO: 06A-UI-10056-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ADECCO USA INC
Employer

OC: 08/27/06 R: 04
Claimant: Appellant (1)

Section 96.3-5 – Benefit Calculation Related to Business Closure

STATEMENT OF THE CASE:

Joy A. Speir (claimant) appealed a representative's October 12, 2006 decision (reference 02) that concluded she was not qualified to receive enhanced unemployment insurance benefits due to a business closure after a separation from employment from ADECCO USA, Inc. (employer). Hearing notices were mailed to the parties' last-known addresses of record for a telephone hearing to be held at 1:00 p.m. on October 30, 2006. Both parties failed to respond to the hearing notice and provide a telephone number at which they could be reached for the hearing and did not participate in the hearing. Based on a review of the information in the administrative file 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 established an unemployment insurance benefit year effective June 11, 2006. Her weekly benefit amount was calculated to be \$172.00, and her maximum benefit amount was set at \$3,927.24, based upon her report of a separation due to a business closing. However, the employer is a temporary employment firm; the claimant's employment from the employer was the ending of a temporary assignment, even if the assignment ended because of the closure of the employer's business client at which the claimant had been assigned. No evidence was presented to establish that the employer's temporary employment firm does not continue to operate.

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, calculated as one-third of the wages paid for insured work. However, under usual circumstances, if the claimant is laid off due to the claimant's last

employer going out of business, the individual's account is credited with one-half, instead of one-third, of the wages for insured work paid, which may increase the maximum benefits payable 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; 871 IAC 24.29.

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's actual employer has not had a business closure. Therefore, claimant is not entitled to a recalculation of benefits. Her eligibility must therefore be determined following the standard methods of calculation.

DECISION:

The representative's October 12, 2006, reference 02, decision is affirmed. The claimant was not laid off due to a business closure. Calculation of benefits under the business closure method is denied.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/pjs