

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JESUS M CASTILLO
Claimant

APPEAL NO. 12A-UI-02520-VST

TASTY TACOS INC
Employer

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 11/06/11
Claimant: Respondent (2)**

Section 96.3-5 – Business Closing Benefits

STATEMENT OF THE CASE:

The employer filed an appeal from a decision of a representative dated March 5, 2012, reference 03, which held that the claimant was eligible to have his claim redetermined as a business closing. After due notice, a telephone conference hearing was scheduled for and held on March 29, 2012. Neither party responded to the hearing notice. The only evidence available to the administrative law judge is the employer's appeal letter dated March 12, 2012.

ISSUE:

Whether the claimant is eligible for business closing benefits.

FINDINGS OF FACT:

The administrative law judge, having considered all of the evidence in the record, makes the following findings of fact:

The claimant was employed at the employer's location at 3715 Douglas, Des Moines, Iowa. That location was closed and the claimant refused a transfer to another location.

REASONING AND CONCLUSIONS OF LAW:

The law provides that if a claimant has been laid off due to his employer going out of business, the claimant's account is credited with one-half instead of one-third of the wages for insured work. Iowa Code § 96.3-5, 871 IAC 24.29(1).

Going out of business means any factory, establishment, or other premises of an employer that 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. 871 IAC 24.29(2).

There is virtually no evidence on which to make a decision in this case. Based on the statements in the employer's appeal letter, the employer in this case did not go out of business.

Rather the location at which the claimant worked was closed. The claimant is not eligible for business closing benefits.

DECISION:

The decision of the representative dated March 5, 2012, reference 03, is reversed. The claimant is not eligible for business closing benefits.

Vicki L. Seeck
Administrative Law Judge

Decision Dated and Mailed

vls/pjs