

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**TERESA M LORTZ**  
Claimant

**APPEAL NO. 19A-UI-04578-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**XPO LOGISTICS INC**  
Employer

**OC: 05/26/19**  
**Claimant: Appellant (1)**

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

**STATEMENT OF THE CASE:**

Teresa Lortz filed a timely appeal from the June 3, 2019, reference 01, decision that denied her request to have her benefit eligibility redetermined as being based on a layoff pursuant to a business closing. After due notice was issued, a hearing was held on July 1, 2019. Ms. Lortz participated. The employer did not register a telephone number for the hearing and did not participate. Exhibits A and B and Department Exhibits D-1 and D-2 were received into evidence.

**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: Teresa Lortz was employed by XPO Logistics, Inc. as a full-time operations financial accounting employee until May 16, 2019, when the employer laid her off. Ms. Lortz performed her work at the XPO Logistics facility located at 1275 N.W. 128TH Street in Clive, Iowa. Ms. Lortz's layoff occurred in the context of the employer's decision to transfer the duties performed by the Clive finance department to the employer's corporate finance office in High Point, North Carolina. Most of Ms. Lortz's colleagues left the employer subsequent to notice in summer 2018 that the employer would be transferring the finance department duties in the following year. Following Ms. Lortz's separation from the employer, Ms. Lortz's supervisor is the sole remaining member of the finance department still working from the Clive location. The employer continues to operate its transportation and logistics departments at the Clive location where Ms. Lortz performed her work duties.

**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 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.

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 evidence establishes that Ms. Lortz was laid off, but that her layoff was not pursuant to a business closing within the meaning of the law. Despite Ms. Lortz's layoff and the transfer of the finance department duties to the corporate office, the employer continues to conduct business from the Clive location where Ms. Lortz worked. Ms. Lortz is not eligible to have her claim for benefits redetermined as being based on a layoff pursuant to a business closing.

**DECISION:**

The June 3, 2019, reference 01, is affirmed. The claimant's layoff was not due to a business closing within the meaning of the law. The claimant's request to have her benefits redetermined as being based on a layoff pursuant to a business closing is denied.

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James E. Timberland  
Administrative Law Judge

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Decision Dated and Mailed

jet/scn