

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ANNETTE L BOSHART

Claimant

APPEAL NO. 12A-UI-06807-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

PACKERS SANITATION SERVICES INC

Employer

OC: 12/12/11

Claimant: Appellant (2)

Section 96.3(5) – Business Closing

STATEMENT OF THE CASE:

The claimant, Annette Boshart, filed an appeal from a decision dated June 1, 2012, reference 01. The decision denied the claimant's request for a redetermination of benefits based on a business closing. After due notice was issued, a hearing was held by telephone conference call on July 3, 2012. The claimant participated on her own behalf. The employer Packers Sanitation Service, did not provide a telephone number where a witness could be contacted and did not participate..

ISSUE:

The issue is whether the claimant's request for redetermination of claim may be granted.

FINDINGS OF FACT:

Annette Boshart was employed by Packers Sanitation Services from September 18, 2000 until November 25, 2011 as a full-time accounts receivable clerk. She worked at the address of 1010 East Washington Street, Mount Pleasant, Iowa.

In June 2011 CEO David Zelman told the staff at the Mount Pleasant location the office there would be closing later in the year. A month or so later Ms. Boshart was informed her department would close November 25, 2011. The whole office closed entirely in January 2012.

The premises was leased to another client, an insurance agency, which is in no way related to Packers Sanitation Services.

REASONING AND CONCLUSIONS OF LAW:

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.

871 IAC 24.29(1) provides:

Business closing.

(1) Whenever an employer at a factory, establishment, or other premises goes out of business at which the individual was last employed and is laid off, the individual's account is credited with one-half, instead of one-third, of the wages for insured work paid to the individual during the individual's base period. This rule also applies retroactively for monetary redetermination purposes during the current benefit year of the individual who is temporarily laid off with the expectation of returning to work once the temporary or seasonal factors have been eliminated and is prevented from returning to work because of the going out of business of the employer within the same benefit year of the individual. This rule also applies to an individual who works in temporary employment between the layoff from the business closing employer and the Claim for Benefits. For the purposes of this rule, temporary employment means employment of a duration not to exceed four weeks.

The claimant was laid off due to the business closing at the location where she was last employed. It was not sold to another company and no business related to Packers Sanitation Services is currently being conducted at that location. Under the provisions of the above Code sections, the business has permanently closed.

DECISION:

The representative's decision of June 1, 2012, reference 01, is reversed. Annette Boshart shall have her claim redetermined as a business permanently closed.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/css