

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

BRADFORD J TODD
Claimant

HERTZ LOCAL EDITION TRANSPORTING
Employer

APPEAL NO. 21A-UI-14804-JT-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 04/04/21
Claimant: Appellant (2)**

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

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the June 22, 2021, reference 02, decision that denied his request to have his benefits redetermined as being based on a laid off due to a business closing. After due notice was issued, a hearing was held on August 24, 2021. The claimant participated. The employer did not provide a telephone number for the hearing and did not participate. Exhibit A, the online appeal, was received into evidence. The administrative law judge took official notice of the employer's SIDES response to the notice of claim.

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: The claimant was employed by Hertz Local Edition Transportation as a part-time vehicle transporter from 2017 until December 11, 2020, when the employer laid him off due to a lack of work. The Hertz business for which the claimant worked maintained an office inside Vaughn Automotive, an automobile dealership on Vaughn Drive in Ottumwa. Hertz vacated the office within the dealership a week after the claimant was laid off. The dealership now uses the office in question for its own business. The next closest Hertz location is in Iowa City, more than an hour away from Ottumwa.

REASONING AND CONCLUSIONS OF LAW:

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.

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 the claimant was laid off as the result of a business closing. There is no reason to believe that employer sold or otherwise transferred its business to another employer entity that continued to operate from the same location. Though the employer's landlord, Vaughn Automotive, continues to operate its unrelated business in the same facility from which the employer, its tenant, operated, the claimant's employer, Hertz, did indeed go out of business at the location where the claimant was employed. The claimant is eligible to have his benefit eligibility redetermined as being based on a business closing.

DECISION:

The June 22, 2021, reference 02, decision is reversed. The claimant was laid off due to a business closing and his benefit eligibility shall be determined accordingly.



James E. Timberland
Administrative Law Judge

August 26, 2021
Decision Dated and Mailed