

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JANNA S SACCO
Claimant

APPEAL NO: 12A-UI-06536-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

KECK ENERGY
Employer

OC: 03/25/12
Claimant: Appellant (1)

Section 96.3-5 – Business Closing
871 IAC 24.29 – Definition of Closing

STATEMENT OF THE CASE:

The claimant appealed a department decision dated May 23, 2012, reference 02, that denied her request for business closing benefits effective March 25, 2012. A telephone hearing was held on June 26, 2012. The claimant participated. The employer did not participate.

ISSUE:

Whether claimant was laid off due to a business closing.

FINDINGS OF FACT:

The administrative law judge, having heard the witness testimony and having considered the evidence in the record finds: The claimant was hired by the employer corporation as a part-time cashier for its Maid-Rite business on August 8, 2008. She became a full-time employee after 90 days. She later worked as a full-time cashier for both the Maid-Rite and Petro gas station/convenience store at the same location in Clive, Iowa.

The employer sold the Maid-Rite business effective December 30, 2011, which ended her job there, but she continued to work her full-time job at Petro until March 26, 2012, when it was sold to a Git-n-Go. Claimant declined a job offer at the latter business.

The employer failed to respond to the hearing notice.

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.

The administrative law judge concludes the claimant was laid off for lack of work due to a business permanently closed on March 25, 2012.

Claimant's employment ended as the result of the employer selling the business to a new owner, which does not meet the definition of a business closing.

DECISION:

The department decision dated May 23, 2012, reference 02, is affirmed. The claimant was not laid off on March 25, 2012 due to a business closing. Business closing benefits are denied.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/kjw