

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JEFF L WILLIAMS**  
Claimant

**APPEAL NO. 10A-UI-06773-NT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CENTRAL IOWA KFC INC**  
Employer

**OC: 11/29/09  
Claimant: Respondent (2)**

Section 96.3-5-b – Unemployed Due to Business Closure

**STATEMENT OF THE CASE:**

The employer filed a timely appeal from a representative's decision dated April 30, 2010, reference 02, which recalculated the claimant's maximum benefit amount effective November 29, 2009 upon a finding that the claimant was laid off due to a business closure. After due notice, a telephone conference hearing was held on June 24, 2010. Although duly notified, the claimant did not participate. The employer participated by Kevin Schultz, President.

**ISSUE:**

The issue is whether the claimant was laid off due to a business closure.

**FINDINGS OF FACT:**

Having considered all of the evidence in the record, the administrative law judge finds: Jeff Williams began his employment with Central Iowa KFC, Inc. on July 5, 2000 and continues to be employed at the time of hearing. Mr. Williams holds the position of part-time food service worker and is paid by the hour. Mr. Williams is employed at the employer's facility located at 4815 S.W. 9th St., Des Moines, Iowa. The facility where the claimant has been employed and continues to be employed at the time of hearing remains in operation and has not been closed.

**REASONING AND CONCLUSIONS OF LAW:**

The issue presented in this appeal is whether the claimant was laid off due to his employer going out of business and therefore is entitled to have his wage credits recomputed. The administrative law judge concludes the claimant was not laid off as a result of the employer going out of business and, therefore, is not entitled to recomputation of his wage credits.

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 administrative law judge concludes the employer has not gone out of business in its 4815 S.W. 9th St., Des Moines, Iowa location, the premises at which the claimant has been employed. The claimant continues to be employed by the employer at this location. The facility at which the claimant has been employed remains open and has not ceased to function as a business. Accordingly, the administrative law judge concludes the employer is not considered to have gone out of business at the business location where the claimant is employed and as a consequence the claimant was not laid off due to the employer going out of business and the claimant is, therefore, not entitled to a recomputation of his wage credits.

**DECISION:**

The representative's decision dated April 30, 2010, reference 02, is reversed. The claimant, Jeff Williams, is not entitled to have his unemployment insurance benefits redetermined as a business closing.

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Terence P. Nice  
Administrative Law Judge

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Decision Dated and Mailed

pjs/pjs