

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JAVIER ESCOBEDO AVILA
Claimant

APPEAL NO. 11A-UI-03005-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

DES MOINES LANDSCAPES LC
Employer

OC: 01/09/11
Claimant: Respondent (4)

Section 96.3-5 – Business Closure

STATEMENT OF THE CASE:

The employer filed a timely appeal from an unemployment insurance decision dated March 3, 2011, reference 01, that ruled that the claimant's unemployment insurance benefits should be recalculated using the business closure provisions of the statute. After due notice was issued, a telephone hearing was held April 8, 2011, with President Matt Hosier participating for the employer. The claimant declined to participate.

ISSUE:

Is the claimant unemployed as the result of a business closure?

FINDINGS OF FACT:

Having heard the testimony of the witness and having examined all of the evidence in the record, the administrative law judge finds: The claimant was last employed by Des Moines Landscapes of 4261 50th Avenue Norwalk, Iowa. The employer is still in business at that location.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the claimant's benefits should be recalculated pursuant to the business closure provisions of Iowa Code section 96.3-5. Since the evidence establishes that the employer remains in operation at the location where the claimant was last employed, recomputation of benefits is not appropriate.

DECISION:

The unemployment insurance decision dated March 3, 2011, reference 01, is modified. The claimant remains entitled to receive unemployment insurance benefits, provided he is otherwise eligible. Benefits shall not be recalculated pursuant to the business closure provisions of the statute.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

kjw/kjw