

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MATTHEW J WAGNER
Claimant

APPEAL NO. 13A-UI-02968-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

FOUR OAKS FAMILY & CHILDREN SERV
Employer

**OC: 05/13/12
Claimant: Appellant (2)**

Section 96.3(5) – Business Closing

STATEMENT OF THE CASE:

The claimant, Matthew Wagner, filed an appeal from a decision dated March 7, 2013, reference 05. 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 scheduled to be held but prior to that it was determined to be unnecessary.

ISSUE:

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

FINDINGS OF FACT:

Matthew Wagner was employed by Four Oaks at a facility in Iowa City, Iowa. The program for which he worked lost funding and was ended. He was notified by the employer he was laid off and then informed his contract position had ended.

The employer submitted a statement indicating it would not be participating in the hearing.

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 program for which the claimant worked was ended due to lack of funding; he was laid off and then informed his contract position was ended. The administrative law judge considered the claimant's appeal letter and also the fact the employer would not be participating. The employer would not be offering any rebuttal testimony to the claimant's testimony and would establish the business was not closed.

DECISION:

The representative's decision of March 7, 2013, reference 05, is reversed. The claimant's request for a redetermination based on a business closing is granted.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/pjs