

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

HEATHER M UNTIEDT
Claimant

APPEAL NO: 19A-UI-02574-JC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

S T L CARE COMPANY
Employer

OC: 02/17/19
Claimant: Respondent (1)

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

STATEMENT OF THE CASE:

The employer filed an appeal from the March 13, 2019, (reference 03) unemployment insurance decision that allowed the claimant's monetary record to be recalculated due to a business closing from this employer. The parties were properly notified about the hearing. A telephone hearing was held on April 12, 2019. The hearing was consolidated with Appeal 19A-UI-02574-JC-T. The claimant participated. The employer participated through Jaclyn Hall, assistant administrator. Department Exhibit 1 was admitted. The administrative law judge took official notice of the administrative records including the fact-finding documents. Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

The issue is whether the claimant was laid off due 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 full-time as a direct support professional and was separated from employment on January 31, 2019, when she was laid off because the business was closed and sold.

The claimant worked for New Horizons, located at 1220 5th Avenue Southeast in Cedar Rapids, Iowa, which is no longer operating. The employer's other facilities in Cedar Rapids remained open at the time of the hearing.

REASONING AND CONCLUSIONS OF LAW:

The issue presented in this appeal is whether the claimant was laid off due to the employer going out of business and is entitled to have her wage credits recomputed.

The administrative law judge concludes that the claimant was laid off as the result of the employer going out of business at the location where the claimant was last employed. Therefore, she is entitled to a recalculation of her wage credits.

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(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, which may increase the maximum benefit amount up to 39 times the weekly benefit amount or one-half of the total base period wages, whichever is less. 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.

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 administrative law judge concludes that the employer did close the business at Bright Horizons' Cedar Rapids, Iowa location. There is no evidence that the employer's premises where claimant worked was sold and that a successor employer will continue to operate the

business. Therefore, the claimant remains qualified for benefits based upon a layoff from this employer, and she is entitled to a recalculation of benefits.

DECISION:

The March 13, 2019, (reference 03) decision is affirmed. The claimant was laid off due to a business closure. Recalculation of benefits is granted.

Jennifer L. Beckman
Administrative Law Judge

Decision Dated and Mailed

jlb/scn