

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

AHMED USMANI
Claimant

APPEAL NO. 09A-UI-02302-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**KAVYA CORPORATION
THE HARTWOOD INN**
Employer

**Original Claim: 04/29/07
Claimant: Appellant (1)**

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

STATEMENT OF THE CASE:

Ahmed Usmani filed a timely appeal from the February 10, 2009, reference 01, decision that denied his request to have his benefit eligibility redetermined as being based on a layoff pursuant to a business closing. After due notice was issued, a hearing was held on March 30, 2009. Mr. Usmani participated. Kevish Patel, President, represented Kavya Corporation.

ISSUE:

Whether Mr. Usmani's separation from The Hartwood Inn was based on a layoff pursuant to a business closing.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Ahmed Usmani was employed by Usmani & Associates, doing business as The Hartwood Inn, as a full-time manager from 2003 until April 23, 2007, when Usmani & Associates sold The Hartwood Inn to Kavya Corporation. Mr. Usmani was laid off in connection with the sale of the business. Kavya Corporation did not rehire or otherwise continue Mr. Usmani's employment. After the sale, Kavya Corporation continued to operate The Hartwood Inn as a motel at the same Charles City location. Kavya Corporation continues to operate The Hartwood Inn at the same location.

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.

871 IAC 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 evidence establishes that Mr. Usmani was laid off, but not laid off in connection with a business closing as defined by the applicable administrative code rule. The evidence indicates instead that Mr. Usmani was laid off in connection with the sale of the business, but that the successor employer continued to operate the business at the same location.

Based on the evidence in the record and application of the law cited above, the administrative law judge concludes that Mr. Usmani's unemployment insurance benefits should not be determined as based on a layoff pursuant to a business closing.

DECISION:

The Agency representative's decision dated February 10, 2009, reference 01, is affirmed. The claimant was laid off on or about April 23, 2007. The layoff was not based on a business closing. The claimant's application to have benefits redetermined is denied.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/kjw