

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**HELEN B POWELL**  
Claimant

**APPEAL NO. 09A-UI-16562-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**ACCURATE MECHANICAL CO INC**  
Employer

**Original Claim: 07/05/09  
Claimant: Appellant (1)**

Section 96.3-5 - Business Closing

**STATEMENT OF THE CASE:**

The claimant appealed a representative's October 21, 2009 decision (reference 02) that denied her request for business closing benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on December 9, 2009. The claimant participated in the hearing. The employer did not respond to the hearing notice or participate in the hearing. Based on the evidence, the arguments of the claimant, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

Is the claimant eligible to receive business closing benefits?

**FINDINGS OF FACT:**

On July 2, 2009, the employer told the claimant and other employees the business was closing the next day. On July 3 when the claimant returned her truck, the owner told the claimant to file for unemployment insurance benefits. Since July, the claimant heard rumors the employer was still in business.

In mid-October, a Department field auditor checked the employer. The field auditor found that while most employees had been laid off in July, the employer was still operating a business.

**REASONING AND CONCLUSIONS OF LAW:**

The law provides that if a claimant has been laid off due to her employer going out of business, the claimant's account is credited with one-half instead of one-third of the wages for insured work. Iowa Code § 96.3-5, 871 IAC 24.29(1).

Going out of business means any factory, establishment, or other premises of an employer that closes its door and ceases to function as a businesses; 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. 871 IAC 24.29(2).

The claimant is not entitled to have her benefits be redetermined as a business closing. The facts do not establish the employer actually closed its doors and ceased to function as a business. The field auditor's mid-October 2009 report supports that the employer laid off many employees in July but has not at this time closed the business.

**DECISION:**

The representative's October 21, 2009 decision (reference 02) is affirmed. The claimant was laid off from work but is not entitled to business closing benefits, because the employer has not, as of the date of the hearing, ceased to function as a business.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/kjw