

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

DIANNA L HANDLEY
1312 – 16TH ST
DES MOINES IA 50314

CITICORP CREDIT SERVICES INC USA
C/O TALX UC EXPRESS
PO BOX 283
ST LOUIS MO 63166-0283

Appeal Number: 05A-UI-03989-JTT
OC: 03/27/05 R: 02
Claimant: Appellant (2)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.3(5) – Lay Off Due to Business Closing

STATEMENT OF THE CASE:

Dianna Handley filed a timely appeal from the April 5, 2005, reference 01, that she had not been laid off as a result of the employer going out of business. A hearing has been scheduled for May 5, 2005 and the parties have been provided appropriate notice. However, prior to the hearing, the administrative law judge received notice that the Agency decision upon which the appeal is based has been amended and reversed in favor of the claimant. The administrative law judge hereby takes official notice of the Agency decision dated May 2, 2005, reference 02.

FINDINGS OF FACT:

Having reviewed the file and the relevant Agency decisions, the administrative law judge finds: The Agency decision that the claimant was not laid off as a result of the employer going out of business has since been amended and reversed by an Agency decision dated May 2, 2005,

reference 02. The amended decision eliminates the basis for the claimant's appeal and the need for a hearing on the appeal.

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 Agency decision upon which the claimant's appeal is based has since been reversed by an Agency decision dated May 2, 2005, reference 02, which determined that the claimant was in fact laid off as a result of the employer going out of business and benefits should be recalculated accordingly.

DECISION:

The Agency representative's decision dated April 5, 2005, reference 01, that the claimant was not laid off as a result of the employer going out of business, is reversed.

jt/tjc