

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SANDRA L WENCK
Claimant

APPEAL NO: 14A-UI-03993-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MEL-CO
Employer

OC: 02/02/14
Claimant: Appellant (2/R)

Iowa Code § 96.3(5) – Business Closing

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's April 1, 2014 determination (reference 01) that denied her request to recalculate her claim as a business closing. The claimant participated at the May 6 hearing with her witness, Sara Rivas. The employer did not respond to the hearing notice or participate at the hearing. Based on the evidence, the claimant arguments, and the law, the administrative law judge grants the claimant's request to have her claim recalculated as a business closing.

ISSUE:

Should the claimant's claim be recalculated as a business closing?

FINDINGS OF FACT:

The claimant started working for the employer in August 2008. She worked at the employer's office. The employer had an on-line business and sold items on E-bay and Amazon. At one time the employer handled Sears's accounts. The employer's business was located in a warehouse on Guthrie and Dixon in a warehouse.

The claimant's last day of work was February 2, 2014. Two warehouse employees continued to work until February 28, 2014. These employees moved items. The office front where the claimant worked is vacant. The owner moved some of his valuable books to his home and may have a home office. The business at Guthrie and Dixon is closed and was not sold or transferred to another business entity.

REASONING AND CONCLUSIONS OF LAW:

When a claimant has been laid off because the employer at which she was last employed goes out of business, a claimant's unemployment insurance claim can be credited with one-half instead of one-third of the claimant's wages in the base period. Iowa Code § 96.3(5). Business closing or going out of business means any factory, establishment, or other premises of an employer that closes its door. A business is not considered to have gone out of business at the factory, establishment, or other premises when 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 evidence establishes the claimant became unemployed because the employer closed its on-line business. The office front where the claimant worked no longer exists and the employer no longer has product in the warehouse at Guthrie and Dixon. The employer did not sell or transfer the on-line business to another entity. The claimant became unemployed because the employer closed the business at Guthrie and Dixon. The claimant's request to recalculate her claim as a business closing is granted.

DECISION:

The representative's April 1, 2014 determination (reference 01) is reversed. The claimant's request to have her claim recalculated as a business closing is granted.

This matter is **Remanded** to the Benefits Bureau to recalculate the claimant's claim as a business closing.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css