

operations and the employees were laid off. Syngenta had purchased the Eldora plant, along with other Advanta USA holdings, on or before January 1, 2005. Syngenta subsequently sold the Garst plant in Eldora to Harteng Brothers of Wisconsin as part of a sale that included other plants. Harteng Brothers continued operations at the Coon Rapids plant, but ceased operations at the Eldora plant.

REASONING AND CONCLUSIONS AT LAW:

The question for the administrative law judge is whether the evidence in the record establishes that Ms. Bacon was laid off due to a business closing.

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 in the record establishes that Ms. Bacon was, in fact, laid off as the result of a business closing. The Garst seed bagging plant in Eldora was sold to Harteng Brothers of Wisconsin, which then ceased operations on the premises where Ms. Bacon was employed. Workforce Development field auditors prepared a Form 6020 to document that the Coon Rapids plant had not closed. However, Workforce Development field auditors did not investigate whether the Eldora plant closed. The weight of the evidence in the record establishes that the Eldora plant did close. The administrative law judge concludes that

Ms. Bacon's unemployment insurance benefits should be redetermined as based on a business closing.

The evidence in the record raises the question of which entity is properly the employer of record in this matter. This matter will be remanded to the Agency's tax department for a determination of the appropriate employer of record.

DECISION:

The Agency representative's decision dated September 2, 2005, reference 01, is reversed. The claimant was laid off due to a business closing and her benefits should be redetermined accordingly. The matter is remanded to the Agency's tax department for a determination of the correct employer of record.

jt/pjs