

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**SHERYL A CHURCH**  
Claimant

**APPEAL NO. 12A-UI-08124-NT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**SDH EDUCATION WEST LLC**  
Employer

**OC: 06/10/12**  
**Claimant: Appellant (2)**

Section 96.3-5 – Layoff Due to Business Closing

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from an unemployment insurance decision dated June 29, 2012, reference 01, that denied the claimant's request to have her unemployment insurance claim redetermined as a business closing effective June 10, 2012. After due notice was issued, a telephone hearing was held August 1, 2012. Ms. Church participated personally. Although duly notified, the employer did not respond to the notice of hearing and did not participate.

**ISSUE:**

The issue is whether the claimant can have her claim redetermined based upon a business closing.

**FINDINGS OF FACT:**

Having considered the evidence in the record, the administrative law judge finds: Sheryl Church was employed by SDH Education West LLC from September 2010 until August 8, 2012 when she was laid off due to the closing of the employer's facility located at Kirkwood College where the claimant was employed. Ms. Church worked as a full-time administrative assistant and was paid by the hour. Her immediate supervisor was Daniel Pelchan.

Ms. Church was officially notified by SDH Education West LLC on June 6, 2012 that "Sodexo's" last day of operations at Kirkwood College would be Friday, June 8, 2012. (See Exhibit A). Subsequently the claimant was also notified by Tom Wissler that Sodexo was no longer operating at Kirkwood Community College effective June 8, 2012. (See Exhibit B).

Ms. Church testified that because of a contractual issue with Kirkwood College the College had determined to terminate the services of SDH Education West LLC at the Kirkwood College. The claimant further testified that SDH Education West had removed all of its computers and personal equipment from the facility and there no longer is a presence of Sodexo or SDH Education West at Kirkwood College, where the claimant was previously employed.

## REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant was laid off due to a business closure.

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(1) provides:

Business closing.

(1) Whenever an employer at a factory, establishment, or other premises goes out of business at which the individual was last employed and is laid off, the individual's account is credited with one-half, instead of one-third, of the wages for insured work paid to the individual during the individual's base period. This rule also applies retroactively for monetary redetermination purposes during the current benefit year of the individual who is temporarily laid off with the expectation of returning to work once the temporary or seasonal factors have been eliminated and is prevented from returning to work because of the going out of business of the employer within the same benefit year of the individual. This rule also applies to an individual who works in temporary employment between the layoff from the business closing employer and the Claim for Benefits. For the purposes of this rule, temporary employment means employment of a duration not to exceed four weeks.

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 administrative law judge concludes that the employer went out of business at its Kirkwood College location. Went out of business means any factory, establishment or other premises of the employer which closes its door and ceases to function as a business. The claimant's testimony establishes that the employer ended its contractual relationship with Kirkwood College and closed its doors at its facilities at Kirkwood College in Cedar Rapids, Iowa. This is confirmed by Exhibits A and B, statements from the employer to its employees indicating that the facility at Kirkwood College was closing. Accordingly, the administrative law judge concludes that the employer is considered to have gone out of business at its Kirkwood College facility, and as a consequence the claimant was laid off due to the employer going out of business at the business location. The claimant is therefore entitled to recalculation of her wage credits.

**DECISION:**

The adjudicator's decision dated June 29, 2012, reference 01, is reversed. The claimant, Sheryl Church, is entitled to have her unemployment insurance claim redetermined as a business closing including a recomputation of her wage credits. The claimant's request for such redetermination and recomputation is granted.

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Terence P. Nice  
Administrative Law Judge

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Decision Dated and Mailed

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