

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

LONNY D DAUGHERTY
Claimant

APPEAL NO. 19A-UI-02516-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

THURSTON MANUFACTURING COMPANY
Employer

OC: 03/10/19
Claimant: Appellant (2)

Section 96.3(5) – Duration of Benefits
871 IAC 24.29 – Business Closing

STATEMENT OF THE CASE:

Lonny Daugherty filed a timely appeal from the March 20, 2019, reference 01, decision that denied his request to have his claim for benefits redetermined as being based on a layoff pursuant to a business closing. After due notice was issued, a hearing was held on April 10, 2019. Mr. Daugherty did not comply with the hearing notice instructions to register a telephone number for the hearing and did not participate. Carolyn Jensen represented the employer.

ISSUE:

Whether the claimant was laid off pursuant to a business closing.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Lonny Daugherty was employed by Thurston Manufacturing Company as a manufacturing production laborer from 2013 until March 6, 2019, when the employer laid him off. Mr. Daugherty worked at a facility in Spencer, Iowa. The employer laid off Mr. Daugherty in connection with ceasing business operations at the Spencer facility. The employer did not sell the Spencer business entity. The employer's primary customer commenced performing in-house, in another community, the work that Thurston Manufacturing had previously performed for the customer at the Spencer facility. The Spencer facility closed its doors on April 5, 2019.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code § 96.3(5)a provides:

- a. 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.

Iowa Admin. Code r. 871-24.29(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 Mr. Daugherty was laid off as the result of a business closing. The employer did not sell or otherwise transfer the Spencer operations to another business entity that continued to operate from the same location. Instead, the employer ceased operations and closed its doors at the Spencer location where Mr. Daugherty worked. Mr. Daugherty's unemployment insurance benefits shall be redetermined as being based on a business closing.

DECISION:

The March 20, 2019, reference 01, decision is reversed. The claimant was laid off pursuant to a business closing. The claimant's unemployment insurance benefits shall be redetermined accordingly.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/rvs