

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JOHN M O'CONNOR**  
Claimant

**APPEAL NO. 10A-UI-15303-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**TOWNSEND INDUSTRIES INC**  
Employer

**OC: 08/15/10**  
**Claimant: Appellant (2)**

Section 96.3-5 – Business Closing  
871 IAC 24.29(1) – Business Closing

**STATEMENT OF THE CASE:**

The claimant appealed an unemployment insurance decision dated November 2, 2010, reference 01, that concluded the claimant was ineligible for business-closing benefits. A telephone hearing was held on December 16, 2010. The parties were properly notified about the hearing. The claimant participated in the hearing. No one participated in the hearing on behalf of the employer. Exhibit A was admitted into evidence at the hearing.

**FINDINGS OF FACT:**

The claimant worked as a draftsman for the employer from July 1988 to June 17, 2010. On June 17, 2010, the employer closed its manufacturing business located in Altoona, Iowa, and the claimant was laid off. Although the employer continues to employ someone to administer its health benefit program, this is outside of the normal business activity for the employer and there is no evidence the benefit administrator works from the former business premises.

**REASONING AND CONCLUSIONS OF LAW:**

The issue in this case is whether the claimant was laid off due to a business closing.

Iowa unemployment insurance law provides additional benefits for claimants laid off due to their employer going out of business at the factory, establishment, or other premises at which they were last employed. Iowa Code § 96.3-5. The unemployment insurance rules further provide business-closing benefits are to be paid retroactively to a claimant who is temporarily laid off with the expectation of returning to work and is prevented from returning to work because of the employer has gone out of business during the claimant's benefit year. 871 IAC 24.29(1). Finally, the rules define going out of business as any factory, establishment, or other premises of an employer that closes its doors and ceases to function as a business. An employer is not considered to have gone out of business at the factory, establishment, or other premises if 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 preponderance of the evidence establishes the claimant was laid off due to a business closing and is eligible for business closing benefits.

**DECISION:**

The unemployment insurance decision dated November 2, 2010, reference 01, is reversed. The claimant is entitled to have his claim redetermined as a layoff due to a business closing.

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Steven A. Wise  
Administrative Law Judge

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Decision Dated and Mailed

saw/css