

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

JULIE A SHOWMAN
Claimant

DEBNER FAMILY ENTERPRISES INC
Employer

APPEAL 17A-UI-06736-JCT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 05/14/17
Claimant: Appellant (2)**

Iowa Code § 96.3(5) -- Duration of Benefits
871 IAC 24.29 – Business Closing

STATEMENT OF THE CASE:

The claimant filed an appeal from the May 14, 2017, (reference 01) unemployment insurance decision which denied the claimant's request to have her unemployment claim redetermined as a business closing. The parties were properly notified about the hearing. A telephone hearing was held on July 20, 2017. The claimant participated personally. Employer did not respond to the notice of hearing to furnish a phone number with the Appeals Bureau and did not participate in the hearing.

The administrative law judge took official notice of the administrative records including the fact-finding documents. Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

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

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The employer operated a Kwik Stop at 205 4th St in Eldon, Iowa. The claimant was employed full-time as a manager and was separated from employment on May 14, 2017, when the employer permanently closed the business. The claimant had worked for the employer for approximately thirteen years, under different owners. However, on May 14, 2017, owner, Brad Debner, went to the store and locked the door, and informed the claimant that the store was "going back to the bank". The store was not sold to another owner, is currently vacant and without electricity.

REASONINGS AND CONCLUSIONS OF LAW:

The issue presented in this appeal is whether the claimant was laid off due to her employer going out of business and is entitled to have her wage credits recomputed. The administrative law judge concludes that the claimant was laid off as the result of the employer going out of

business at the location where the claimant was last employed. Therefore, she is entitled to a recalculation of her wage credits.

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 administrative law judge concludes that the employer did go out of business at its Eldon, Iowa location. Going out of business within the meaning of the Iowa Employment Security Law means any factory, establishment, or premises of an employer which closes its doors and ceases to function as a business. The claimant's testimony establishes that the employer did not sell its business to new owners and there is no operation of business at the same business location where the claimant was last employed. Based on the evidence presented, the administrative law judge concludes that because the business was not sold, but closed under the meaning of Iowa Employment Security Law, the claimant is entitled to a recomputation of her wage credits.

DECISION:

The representative's decision dated May 14, 2017, reference 01, is reversed. The claimant was laid off due to a business closure. Recalculation of benefits is granted.

Jennifer L. Beckman
Administrative Law Judge

Decision Dated and Mailed

jlb/scn