

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

BRANDON M ALLEN

Claimant

APPEAL 21A-UI-24858-AW-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

MATTRESS OUTLET LLC

Employer

OC: 09/26/21

Claimant: Appellant (2)

Iowa Code § 96.3(5) – Benefit Duration - Business Closing
Iowa Admin. Code r. 871-24.29(1) and (2) – Business Closing

STATEMENT OF THE CASE:

Claimant filed a timely appeal from the November 1, 2021 (reference 02) unemployment insurance decision that denied claimant's request to have his monetary determination recalculated due to a business closure. The parties were properly notified of the hearing. A telephone hearing was held on January 6, 2022. Claimant participated. Employer participated through Tim DeVoss, Owner. No exhibits were admitted. Official notice was taken of the administrative record.

ISSUE:

Whether claimant is eligible to have the monetary determination recalculated due to business closing.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed by Mattress Outlet at 1330 Washington Street, Davenport, Iowa until employer closed on September 30, 2021. There is no business operating at 1330 Washington Street, Davenport, Iowa.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant was laid off as a result of a business closure at the location where claimant worked and, therefore, is eligible to have the monetary determination recalculated due to business closing.

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(1) and (2) provide:

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, which may increase the maximum benefit amount up to 39 times the weekly benefit amount or one-half of the total base period wages, whichever is less. 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.

(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.

Employer closed its business where claimant worked on September 30, 2021. Therefore, claimant is entitled to have his monetary determination recalculated.

DECISION:

The November 1, 2021 (reference 02) unemployment insurance decision is reversed. Claimant was laid off due to a business closure. Recalculation of claimant's monetary determination is allowed.

A handwritten signature in black ink, appearing to read 'Adrienne C. Williamson', is positioned above a horizontal line.

Adrienne C. Williamson
Administrative Law Judge
Unemployment Insurance Appeals Bureau
Iowa Workforce Development
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515)478-3528

January 28, 2022
Decision Dated and Mailed

acw/ACW