

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LAURA D SABBY
Claimant

APPEAL NO. 14A-UI-02651-JTT

**AMENDED
ADMINISTRATIVE LAW JUDGE
DECISION**

**NAPA AUTO PARTS
TOM HOVLAND ENTERPRISES INC**
Employer

**OC: 09/01/13
Claimant: Appellant (2)**

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

STATEMENT OF THE CASE:

Laura Sabby filed a timely appeal from the February 26, 2014, reference 01, decision that denied her request to have benefits redetermined as being based on a layoff due to a business closing. After due notice was issued, a hearing was held on April 1, 2014. Ms. Sabby participated. Tom Hovland represented the employer.

An amended decision is being entered in this matter for the sole purpose of acknowledging the successor relationship between Tom Hovland Enterprises, Inc. (employer account number 132815) and Motor Parts & Equipment Corporation (employer account number 534603).

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: Laura Sabby was employed by Tom Hovland Enterprises, Inc., doing business as Napa Auto Parts, as a full-time Chief Financial Officer until August 31, 2013, the effective date of the that employer's sale of its business. Ms. Sabby performed her duties from the employer's corporate office located at 3277 – 4th Street in Mason City. That location housed the employer's retail store, the employer's warehouse, and the employer's corporate office. The new business owner was headquartered in Rockford, Illinois. The new business owner continued to operate the retail store from the same location, scaled back the warehouse operations, and relocated the corporate office operations to Rockford, Illinois. The space that had previously housed the corporate office was put up for lease.

Workforce Development records indicate a successor relationship between Tom Hovland Enterprises, Inc. (employer account number 132815) and Motor Parts & Equipment Corporation (employer account number 534603).

REASONING AND CONCLUSIONS OF LAW:

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(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.

While the new owner continued to operate the retail store and warehouse at the location where Ms. Sabby had previously worked, the new owner relocated the corporate office functions to Illinois, closed the corporate office in Mason City, and that space was put up for lease. The evidence is sufficient to establish a business closing with regard to the Mason City corporate office where Ms. Sabby performed her duties. Ms. Sabby's eligibility for benefits will be redetermined as being based on a layoff pursuant to a business closing.

Based on the successor relationship between Tom Hovland Enterprises, Inc. (employer account number 132815) and Motor Parts & Equipment Corporation (employer account number 534603), liability for benefits paid to Ms. Sabby lies with Motor Parts & Equipment Corporation (employer account number 534603).

DECISION:

The claims deputy's decision dated February 26, 2014, reference 01, is reversed. The claimant was laid off due to a business closing and her benefits should be redetermined accordingly.

Based on the successor relationship between Tom Hovland Enterprises, Inc. (employer account number 132815) and Motor Parts & Equipment Corporation (employer account number 534603), liability for benefits paid to the claimant lies with Motor Parts & Equipment Corporation (employer account number 534603).

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

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