

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

**KOURTNEE A FOX**

Claimant

**APPEAL NO: 20A-UI-10277-JE-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**BOMGAARS SUPPLY INC**

Employer

**OC: 03/29/20**

**Claimant: Appellant (4)**

Section 96.5(3)a – Work Refusal

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the August 24, 2020, reference 02, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on October 9, 2020. The claimant participated in the hearing. The employer did not respond to the hearing notice and did not participate in the hearing.

**ISSUE:**

The issue is whether the claimant refused a suitable offer of work.

**FINDINGS OF FACT:**

The employer made an offer of work to the claimant on June 4, 2020. That offer included the following terms: A data entry position, working 7:30 a.m. to 4:30 p.m. Monday through Friday and some weekends earning \$13.25 per hour. The claimant's average weekly wage is \$971.40. The offer was made in the 10<sup>th</sup> week of unemployment. The claimant refused the offer of work because she did not have childcare.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant did not refuse a suitable offer of work but is not able and available for work.

Iowa Code section 96.5(3)a provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

3. Failure to accept work. If the department finds that an individual has failed, without good cause, either to apply for available, suitable work when directed by the department or to accept suitable work when offered that individual. The department shall, if possible, furnish the individual with the names of employers which are seeking employees. The

individual shall apply to and obtain the signatures of the employers designated by the department on forms provided by the department. However, the employers may refuse to sign the forms. The individual's failure to obtain the signatures of designated employers, which have not refused to sign the forms, shall disqualify the individual for benefits until requalified. To requalify for benefits after disqualification under this subsection, the individual shall work in and be paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

a. (1) In determining whether or not any work is suitable for an individual, the department shall consider the degree of risk involved to the individual's health, safety, and morals, the individual's physical fitness, prior training, length of unemployment, and prospects for securing local work in the individual's customary occupation, the distance of the available work from the individual's residence, and any other factor which the department finds bears a reasonable relation to the purposes of this paragraph. Work is suitable if the work meets all the other criteria of this paragraph and if the gross weekly wages for the work equal or exceed the following percentages of the individual's average weekly wage for insured work paid to the individual during that quarter of the individual's base period in which the individual's wages were highest:

(a) One hundred percent, if the work is offered during the first five weeks of unemployment.

(b) Seventy-five percent, if the work is offered during the sixth through the twelfth week of unemployment.

(c) Seventy percent, if the work is offered during the thirteenth through the eighteenth week of unemployment.

(d) Sixty-five percent, if the work is offered after the eighteenth week of unemployment.

(2) However, the provisions of this paragraph shall not require an individual to accept employment below the federal minimum wage.

The employer made an offer of work to the claimant June 4, 2020. It paid \$530.00 per week. The offer was made in the 10<sup>th</sup> week of unemployment and was not suitable as it did not meet 75 percent of the claimant's average weekly wage ( $\$971.40 \times .75 = \$728.55$ ) as required for an offer made during the sixth through the twelfth week of the claimant's unemployment. Consequently, the claimant did have a good-cause reason for the refusal.

The claimant did not have childcare until the week ending August 29, 2020, when school started. She is not considered able and available for work during the time she did not have childcare. Therefore, benefits are denied from the week ending June 6 through the week ending August 29, 2020.

Even though the claimant is not eligible for regular unemployment insurance benefits under state law, she may be eligible for federally funded unemployment insurance benefits under the Coronavirus Aid, Relief, and Economic Security Act ("Cares Act"), Public Law 116-136. Section 2102 of the CARES Act creates a new temporary federal program called Pandemic Unemployment Assistance (PUA) that in general provides up to 39 weeks of unemployment benefits. An individual receiving PUA benefits may also receive the \$600 weekly benefit amount (WBA) under the Federal Pandemic Unemployment Compensation (FPUC) program if he or she is eligible for such compensation for the week claimed. The claimant does not have to be able

and available for work to be eligible for the federal unemployment programs. The claimant must apply for PUA, as noted in the instructions provided in the "Note to Claimant" below.

**DECISION:**

The August 24, 2020, reference 02, decision is modified in favor of the claimant. The claimant did not refuse a suitable offer of work but is not considered able and available for work from the week ending June 6, 2020 through the week ending August 29, 2020. Benefits are allowed effective the week ending September 5, 2020.



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Julie Elder  
Administrative Law Judge

October 13, 2020  
Decision Dated and Mailed

je/scn

*Note to Claimant:* This decision determines you are not eligible for regular unemployment insurance benefits. If you disagree with this decision you may file an appeal to the Employment Appeal Board by following the instructions on the first page of this decision. Individuals who do not qualify for regular unemployment insurance benefits, but who are currently unemployed for reasons related to COVID-19 may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.