

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**OLIVIA D MICKEY**  
Claimant

**VANB BREWING LLC**  
Employer

**APPEAL 20A-UI-11302-AW-T  
ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 04/12/20  
Claimant: Respondent (2)**

Iowa Code § 96.4(3) – Able to and Available for Work  
Iowa Code § 96.5(3)A – Work Refusal

**STATEMENT OF THE CASE:**

Employer filed an appeal from the September 10, 2020 (reference 01) unemployment insurance decision that allowed benefits. The parties were properly notified of the hearing. A telephone hearing was held on November 30, 2020, at 4:00 p.m. Claimant did not participate. Employer participated through Carrie Westcott, Accountant. No exhibits were admitted. Official notice was taken of the administrative record.

**ISSUES:**

Whether claimant is able to and available for work.  
Whether claimant refused to apply for or accept an offer of suitable work.  
Whether employer made an actual offer of work.

**FINDINGS OF FACT:**

As employer was the only witness, the administrative law judge makes the following findings of fact based solely upon employer's testimony: Claimant was employed as a part-time Bartender from April 24, 2019 until her employment with Van B Brewing ended on May 26, 2020.

On March 6, 2020, employer closed temporarily due to Covid-19 per the Governor's proclamation. Accordingly, claimant was furloughed. Employer used a social media group to communicate with employees. On May 12, 2020, employer sent a social media message to employees, including claimant, stating that employer would reopen on May 26, 2020. Employer recalled employees to the same positions, hours and wages they held prior to the Covid-19 closure. In the message, employer asked employees to respond stating whether or not they planned to return to work. The social media messaging platform notifies the sender when a recipient has read the message. Employer received a notice that claimant read its message; employer received no response from claimant. Claimant has not returned to work. Employer has not had any further contact with claimant.

## REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant refused a suitable offer of work. Benefits are denied.

Iowa Code § 96.5(3)a provides that an individual shall be disqualified for unemployment insurance benefits if that individual has, without good cause, failed to accept suitable work when offered.

Iowa Administrative Code Rule 24.24(14) provides:

Failure to accept work and failure to apply for suitable work. Failure to accept work and failure to apply for suitable work shall be removed when the individual shall have worked in (except in back pay awards) and been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

(14) Employment offer from former employer.

(a) The claimant shall be disqualified for a refusal of work with a former employer if the work offered is reasonably suitable and comparable and is within the purview of the usual occupation of the claimant. The provisions of Iowa Code section 96.5(3)"b" are controlling in the determination of suitability of work.

(b) The employment offer shall not be considered suitable if the claimant had previously quit the former employer and the conditions which caused the claimant to quit are still in existence.

A two-step analysis is used to determine whether a claimant has refused a suitable offer of work. First, the offer must be for suitable work. If suitability is established, then, claimant must have a good cause reason for refusal. See Iowa Admin. Code r. 871-24.24(3).

Employer offered claimant to return to work at her same position, hours and wage. Employer's offer of work was suitable. Claimant did not respond, which is considered a refusal. Claimant has not established good cause reason for refusing to return to work. Accordingly, claimant is not eligible for benefits. Benefits are denied effective May 26, 2020.

**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>. If this decision becomes final or if you are not eligible for PUA, you may have an overpayment of benefits.

**DECISION:**

The September 10, 2020 (reference 01) unemployment insurance decision is reversed. Claimant refused to accept an offer of suitable work. Benefits are denied until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible.



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December 14, 2020  
Decision Dated and Mailed

acw/scn