

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

CLETA R FOX CHANEY
Claimant

KUM & GO LC
Employer

APPEAL 20A-UI-00759-S1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 12/08/19
Claimant: Respondent (1)**

Iowa Code § 96.5-3-a – Refusal to Accept Suitable Work
Iowa Code § 96.4(3) – Able and Available

STATEMENT OF THE CASE:

Kum & Go (employer) appealed a representative's January 22, 2020, decision (reference 04) that concluded Cleta Fox Chaney (claimant) eligible to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on February 10, 2020. The claimant participated personally. The employer participated by Shannon Witham, General Manager.

ISSUE:

The issue is whether the claimant refused suitable work.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on August 30, 2017, and at the end of her employment she was working as a full-time general manager of the Oskaloosa, Iowa, store. She commuted nine miles to work. In that position, she was paid \$21.50 per hour and received benefits and bonuses. She worked Monday through Friday, 6:00 a.m. to 3:00 p.m. The Oskaloosa, Iowa, store closed on December 2, 2019, and the claimant worked at that location through December 5, 2019.

The employer offered and the claimant considered a position as an assistant manager in the Grinnell, Iowa, location starting on December 9, 2019. Her commute would have been twenty-one miles. The job paid \$16.00 per hour with no benefits or bonuses. Her hours would have been Monday through Wednesday from 2:00 p.m. to 10:00 p.m., and every Saturday and Sunday from 6:00 a.m. to 2:00 p.m. If an employee called in sick, the claimant would have to cover the shift.

On December 9, 2019, the claimant sent a text to the employer saying she was not returning to Kum & Go. She refused the work because of the change in pay, hours, and commute to the new location.

The claimant filed a new claim for unemployment insurance benefits with an effective date of December 8, 2019. The claimant's highest quarter of wages during her base period was the fourth quarter of 2018, during which her wages totaled \$8,162.00. The claimant's average weekly wage during her highest quarter of wages was, therefore, \$628.00.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant is able and available for work.

Before a claimant can be disqualified from receiving unemployment insurance benefits for refusing an offer of suitable work, the claimant must be able and available for work. 871 IAC 24.24(4).

Iowa Code section 96.4(3) provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

3. The individual is able to work, is available for work, and is earnestly and actively seeking work. This subsection is waived if the individual is deemed partially unemployed, while employed at the individual's regular job, as defined in section 96.19, subsection 38, paragraph "b", unnumbered paragraph (1), or temporarily unemployed as defined in section 96.19, subsection 38, paragraph "c". The work search requirements of this subsection and the disqualification requirement for failure to apply for, or to accept suitable work of section 96.5, subsection 3 are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "h".

The administrative law judge concludes the claimant did not refuse an offer of suitable work.

Iowa Admin. Code r. 871-24.24(7) and (10) provide:

(7) Gainfully employed outside of area where job is offered. Two reasons which generally would be good cause for not accepting an offer of work would be if the claimant were gainfully employed elsewhere or the claimant did not reside in the area where the job was offered.

(10) Distance to a new job. Without a prior specific agreement between the employer and employee the employee's refusal to follow the employer to a distant new job site shall not be reason for a refusal disqualification.

If a claimant has a good cause, he may refuse work. In this case, the claimant did not reside in the area where the job was offered and the employer more than doubled the distance to the new job and reduced her pay. The claimant had good cause to refuse the job but was able and available for work. Benefits are allowed, provided claimant is otherwise eligible.

DECISION:

The representative's January 22, 2020, decision (reference 04) is affirmed. Benefits are allowed, provided the claimant is otherwise eligible.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/rvs