

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**BRENT M WADE**  
Claimant

**TRITON PLUMBING HEATING AND AIR**  
Employer

**APPEAL 20A-UI-10518-DB-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 03/22/20**  
**Claimant: Respondent (2R)**

Iowa Code § 96.5(3)a – Failure to Accept Work

**STATEMENT OF THE CASE:**

The employer/appellant filed an appeal from the August 17, 2020 (reference 02) unemployment insurance decision that found claimant was eligible to receive unemployment insurance benefits as there was no suitable offer of work made. The parties were properly notified of the hearing. A telephone hearing was held on October 16, 2020. The claimant, Brent M. Wade, did not participate. The employer, Triton Plumbing Heating and Air, participated through witnesses Erin Brown, Mary King and Rodney Gaither. Employer's Exhibit 1 was admitted. The administrative law judge took administrative notice of the claimant's unemployment insurance benefits records.

**ISSUE:**

Was a suitable offer of work made to the claimant? If so, did the claimant fail to accept and was the failure to do so for a good cause reason?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant began working for this employer on February 5, 2018. He worked full-time as a laborer. In March of 2020, the claimant was laid off due to lack of work.

On April 30, 2020, the employer made an offer of work to claimant for him to return to work full-time at his regular laborer position for the same rate of pay. Luke Grafft, one of the master plumbers needed him for a remodel he was scheduled to do. The claimant told Mr. Grafft that he was making more money on unemployment and was not going to return back to work at his regular job. The offer was for full-time employment at 40 hours per week at the rate of \$14.00 per hour.

Claimant had filed an original claim for benefits with an effective date of March 22, 2020. His base period consists of the fourth quarter of 2018 through the third quarter of 2019. The highest wages reported in his base period is in the second quarter of 2019 for \$7,301.00. Therefore, claimant's average weekly wage is \$561.62. The offer was made in the sixth week of unemployment. Claimant refused the offer to return to his regular position with the employer.

The issues of whether the claimant has permanently separated from employment with this employer and whether the claimant is overpaid regular unemployment insurance benefits, Federal Pandemic Unemployment Compensation benefits, and Federal Pandemic Emergency Unemployment Compensation benefits is remanded to the Benefits Bureau for an initial investigation and determination.

## **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes as follows:

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".

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.

During the sixth week of unemployment, the claimant was required to accept an offer of work that paid a weekly wage of \$421.22 (75% of his Average Weekly Wage). See Iowa Code § 96.5(3)a(1)a. The job offered at \$14.00 per hour for 40 hours per week would have paid a weekly wage of \$560.00. As such, this would have paid above 75% of the claimant's average weekly wage of his high quarter in the base period. As such, the offer was suitable and the claimant did not have good cause to refuse it. Benefits are denied effective April 30, 2020 due to the claimant's refusal of a suitable offer of work without good cause.

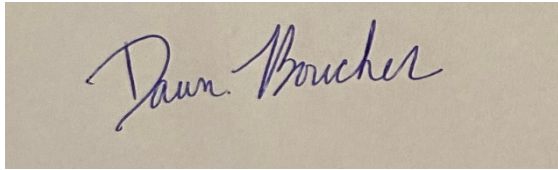
**DECISION:**

The August 17, 2020 (reference 02) unemployment insurance decision is reversed. Benefits are denied effective April 30, 2020 and continuing until the claimant earns wages for insured work equal to ten (10) times his weekly benefit amount after his refusal of work date, and provided he is otherwise eligible.

**REMAND:**

The separation issue and overpayment issues of regular unemployment insurance benefits, Federal Pandemic Unemployment Compensation benefits, and Federal Pandemic Emergency Unemployment Compensation benefits is remanded to the Benefits Bureau for an initial investigation and determination.

*This decision denies unemployment insurance benefits funded by the State of Iowa. If this decision becomes final or if you are not eligible for PUA, you may have an overpayment of benefits. See Note to Claimant below.*



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Dawn Boucher  
Administrative Law Judge

October 19, 2020  
Decision Dated and Mailed

db/scn

**Note to Claimant**

- This decision determines you are not eligible for regular unemployment insurance benefits funded by the State of Iowa under state law. 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.
- If you do not qualify for regular unemployment insurance benefits funded by the State of Iowa under state law, you may qualify for benefits under the Federal Pandemic Unemployment Assistance ("PUA") section of the Coronavirus Aid, Relief, and Economic Security Act ("Cares Act") that discusses eligibility for claimants who are unemployed due to the Coronavirus.
- **You will need to apply for PUA to determine your eligibility under the program.**  
For additional information on how to apply for PUA go to:  
<https://www.iowaworkforcedevelopment.gov/pua-information>.
- If you are denied regular unemployment insurance benefits funded by the State of Iowa and wish to apply for PUA, please visit:  
<https://www.iowaworkforcedevelopment.gov/pua-information> and scroll down to "Submit Proof Here." You will fill out the questionnaire regarding the reason you are not working and upload a picture or copy of your fact-finding decision. Your claim will be reviewed for PUA eligibility. If you are eligible for PUA, you will also be eligible for Federal Pandemic Unemployment Compensation (FPUC) until the program expires. Back payments PUA benefits may automatically be used to repay any overpayment of state benefits. If this does not occur on your claim, you may repay any overpayment by visiting:  
<https://www.iowaworkforcedevelopment.gov/unemployment-insurance-overpayment-and-recovery>.
- If you have applied and have been approved for PUA benefits, this decision will **not** negatively affect your entitlement to PUA benefits.