

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JAIME SANTIAGO

Claimant

APPEAL NO. 09A-UI-18268-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

KRAFT PIZZA COMPANY

Employer

**Original Claim: 10/18/09
Claimant: Respondent (1)**

Section 96.5(3)a – Refusal of Work

STATEMENT OF THE CASE:

Kraft Pizza Company filed an appeal from a representative's decision dated November 25, 2009, reference 01, which held that no disqualification would be imposed regarding Jaime Santiago's October 16, 2009 refusal of work. After due notice was issued, a hearing was held by telephone on January 14, 2009. Mr. Santiago participated personally and offered additional testimony from Jim Nunn. The employer participated by Julie Stokes, Associate Human Resources Manager

ISSUE:

At issue in this matter is whether Mr. Santiago refused an offer of suitable work from Kraft and, if so, whether he had good cause for doing so.

FINDINGS OF FACT:

Having heard the testimony and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Santiago began working for Kraft on March 10, 2004. Beginning on or about October 1, 2009, the employer held meetings with employees to discuss the planned closing of Mr. Santiago's department. His department closed and he last performed services on October 18, 2009. He had not been offered alternative work at that point.

On October 8, 2008, Mr. Santiago signed a document that, in the event of a layoff, he wanted to be recalled only to the department in which he had seniority, which was the department that eventually closed in October of 2009. On or about December 4, 2009, he was contacted and offered work in a different department and accepted it. He was later told he would need to change his recall preference in writing and then wait two weeks before he could be brought back to work. He changed his availability on December 7 and returned to work on December 18, 2009.

REASONING AND CONCLUSIONS OF LAW:

Mr. Santiago was laid off by Kraft on or about October 18, 2009 due to lack of work in his department. Although the employer may have had other work available at that time, it was not

offered to Mr. Santiago until December 4. The fact that his recall sheet indicated he only wanted to be recalled to his department clearly did not prohibit the employer from offering him work in other departments. The work offered on December 4 was offered prior to him making any changes in his recall preference sheet.

Mr. Santiago was not offered any work between October 18 and December 4 and immediately accepted the work that was offered on December 4. He could not return to work immediately after December 4, not because of some reason of his making but because of operation of the employer's work rules. Inasmuch as Mr. Santiago did not refuse any offers of work, there is no basis for disqualifying him from receiving job insurance benefits.

DECISION:

The representative's decision dated November 25, 2009, reference 01, is hereby affirmed. Mr. Santiago did not refuse an offer of work from Kraft. Benefits are allowed, provided he is otherwise eligible.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/kjw