

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

PEDRO RIVERA
Claimant

APPEAL NO. 09A-UI-06135-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

KELLY SERVICES INC
Employer

**Original Claim: 02/01/09
Claimant: Appellant (1)**

Section 96.5(3)a – Refusal of Work

STATEMENT OF THE CASE:

Pedro Rivera filed an appeal from a representative's decision dated April 13, 2009, reference 02, which denied benefits on a finding that he refused suitable work with Kelly Services, Inc. After due notice was issued, a hearing was held by telephone on May 18, 2009. Mr. Rivera participated personally. The employer participated by Kris Kolbe, Senior Staffing Supervisor.

ISSUE:

At issue in this matter is whether Mr. Rivera refused an offer of suitable work without good cause.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Rivera began working through Kelly Services, Inc., a temporary placement firm, on September 4, 2007. He last performed services on October 7, 2008. On March 23, 2009, he was contacted by phone and offered an assignment with Sedna Warehouse in Washington, Iowa. The work was located approximately 30 miles from Iowa City. The assignment was to start on March 24 and last until at least the middle of May. The assignment was for 40 hours each week and paid \$10.00 per hour.

Mr. Rivera declined the assignment because he felt it was too far to drive for only \$10.00 per hour. He might have taken the assignment if the pay had been higher. He told the employer that he was getting unemployment benefits and that he also had plans to visit family in Puerto Rico. He told the employer he would call when he was ready to resume working.

Mr. Rivera filed a claim for job insurance benefits effective February 1, 2009. The average weekly wage paid to him during that quarter of his base period in which his wages were highest was \$397.59.

REASONING AND CONCLUSIONS OF LAW:

An individual is disqualified from receiving job insurance benefits if he refuses an offer of suitable work without good cause. Iowa Code section 96.5(3)a. The offer to Mr. Rivera was made during his eighth week of unemployment. Therefore, it had to pay at least 75 percent of the average weekly wage paid to him during that quarter of his base period in which his wages were highest. In other words, the job had to pay at least \$298.19 per week in order to be considered suitable work within the meaning of the law. The work offered on March 23 paid \$400.00 per week and was, therefore, suitable with respect to wages.

Mr. Rivera cited the distance to the job as a reason for turning it down. The administrative law judge does not consider a daily commute of 60 miles to be burdensome. He cited problems sitting and driving for such a distance. However, he also indicated he might have taken the job if the wages had been higher. Given this factor, the administrative law judge is not inclined to believe that sitting and driving posed a significant problem for Mr. Rivera. He did not cite any factors connected with the work itself that made it unsuitable for him.

The administrative law judge concludes that Mr. Rivera refused an offer of suitable work without good cause. As such, he is not entitled to job insurance benefits as of the Sunday of the week in which the refusal occurred, March 22, 2009.

DECISION:

The representative's decision dated April 13, 2009, reference 02, is hereby affirmed. Mr. Rivera is denied job insurance benefits effective March 22, 2009, as he refused an offer of suitable work with Kelly Services, Inc. for no good cause. Benefits are withheld until he has worked in and been paid wages for insured work equal to ten times his weekly job insurance benefit amount, provided he is otherwise eligible.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/kjw