BEFORE THE EMPLOYMENT APPEAL BOARD Lucas State Office Building Fourth floor Des Moines, Iowa 50319

JULIO A RODRIGUEZ

Claimant,

and

EMPLOYMENT APPEAL BOARD DECISION

KELLY SERVICES INC

Employer.

NOTICE

THIS DECISION BECOMES FINAL unless (1) a request for a REHEARING is filed with the Employment Appeal Board within 20 days of the date of the Board's decision or, (2) a PETITION TO DISTRICT COURT IS FILED WITHIN 30 days of the date of the Board's decision.

A REHEARING REQUEST shall state the specific grounds and relief sought. If the rehearing request is denied, a petition may be filed in **DISTRICT COURT** within 30 days of the date of the denial.

SECTION: 96.5-2-a

DECISION

UNEMPLOYMENT BENEFITS ARE DENIED

The claimant appealed this case to the Employment Appeal Board. The members of the Employment Appeal Board, one member dissenting, reviewed the entire record. The Appeal Board finds the administrative law judge's decision is correct. The administrative law judge's Findings of Fact and Reasoning and Conclusions of Law are adopted by the Board as its own. The administrative law judge's decision is AFFIRMED.

Monique F. Kuester	

AMG/fnv

DISSENTING OPINION OF ELIZABETH L. SEISER:

I respectfully dissent from the majority decision of the Employment Appeal Board; I would remand the decision of the administrative law judge for further consideration. The record, as it stands, does not establish that the claimant was separated from the temporary employment agency, as well as the assignment. As the Iowa Court of Appeals noted in <u>Baker v. Employment Appeal Board</u>, 551 N.W. 2d 646 (Iowa App. 1996), the administrative law judge has a heightened duty to develop the record from available evidence and testimony given the administrative law judge's presumed expertise. For this reason, I would remand this matter.

Elizabeth L. Seiser

AMG/fnv