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

ADALBERTO CASTREJON
Claimant

APPEAL NO. 10A-UI-00369-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ANNA ENTERPRISES
Employer

OC: 02/08/09
Claimant: Appellant (2)

Section 96.5(3)a – Refusal of Work

STATEMENT OF THE CASE:

Adalberto Castrejon filed an appeal from a representative's decision dated January 8, 2010, reference 05, which denied benefits on a finding that he refused an offer of suitable work from Anna Enterprises. After due notice was issued, a hearing was held by telephone on February 18, 2010. Mr. Castrejon participated personally. The employer participated by Bill Van Sloun Manager. Anna Cox participated as the interpreter.

ISSUE:

At issue in this matter is whether Mr. Castrejon refused an offer of suitable work.

FINDINGS OF FACT:

Having heard the testimony and having reviewed all of the evidence in the record, the administrative law judge finds: On December 14, 2009, Anna Enterprises, doing business as Superior Staffing, offered Mr. Castrejon a position with CSC to start on December 15. It would have been an on-going assignment with no specific ending date. The assignment was for 32 to 40 hours each week and paid $14.56 per hour. He initially accepted the assignment but returned later the same day and turned it down. He indicated he wanted an assignment with guaranteed full-time hours.

On December 17, Mr. Castrejon was again offered the assignment with CSC. He accepted it and was to start at 6:00 a.m. the next day. However, he got lost and did not appear until 7:30 a.m., at which point he was sent home. He had been provided a map to the job site when he initially accepted the assignment on December 14.

Mr. Castrejon filed a claim for job insurance benefits effective February 8, 2009. The average weekly wage paid to him during that quarter of his base period in which his wages were highest was $512.13. He filed an additional claim for benefits effective December 6, 2009.

REASONING AND CONCLUSIONS OF LAW:

An individual who refuses an offer of suitable work is disqualified from receiving job insurance benefits. Iowa Code section 96.5(3)a. Although Mr. Castrejon accepted the assignment with CSC, he did not make a good-faith effort to actually work the assignment. He did not use due care to arrive at the assignment timely. He had a map that was given him before he was scheduled to report. He knew he was unfamiliar with the area but made no attempt to find the work location before the day he was to report. Because he did not put himself in a position to start the job, it is concluded that the work was declined.

An individual is only disqualified from receiving benefits if the work refused constituted suitable work within the meaning of the law. Mr. Castrejon filed an additional claim for job insurance benefits effective December 6, 2009. The work offered on December 14 was offered during the second week following the filing of the claim. Therefore, the job had to pay at least 100 percent of the average weekly wage paid him during that quarter of the base period in which the wages were highest. In other words, the job had to pay at least $512.13 per week in order to be considered suitable work. In the case at hand, the work paid $465.92 (32 hours/week x $14.56/hour).

The administrative law judge appreciates that the range of hours was from 32 to 40 hour per week. However, there were no assurances that Mr. Castrejon would receive the higher number of hours. The minimum number of hours is a more reliable indicator of the number of hours to be actually worked. Inasmuch as the wages for the assignment did not meet the level required by the statute, the work was not suitable work. Therefore, Mr. Castrejon cannot be disqualified for the refusal.

DECISION:

The representative's decision dated January 8, 2010, reference 05, is hereby reversed. Mr. Castrejon did not refuse an offer of suitable work on December 14, 2009. Benefits are allowed, provided he is otherwise eligible.

_____
Carolyn F. Coleman
Administrative Law Judge

_____
Decision Dated and Mailed

cfc/pjs