

**IOWA WORKFORCE DEVELOPMENT  
Unemployment Insurance Appeals Section  
1000 East Grand—Des Moines, Iowa 50319  
DECISION OF THE ADMINISTRATIVE LAW JUDGE  
68-0157 (7-97) – 3091078 - EI**

**DIANNA S RIVERA-BELLE  
APT 2  
217 E 6<sup>TH</sup> ST  
AMES IA 50010-6498**

**KELLY CLEANING SERVICES INC  
PO BOX 154  
NEVADA IA 50201-0154**

**Appeal Number: 06A-UI-07910-HT  
OC: 06/25/06 R: 02  
Claimant: Respondent (1-R)**

**This Decision Shall Become Final**, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4<sup>th</sup> Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.4(3) – Able and Available

STATEMENT OF THE CASE:

The employer, Kelly Cleaning Services, Inc. (Kelly), filed an appeal from a decision dated July 26, 2006, reference 01. The decision allowed benefits to the claimant, Dianna Rivera-Belle. After due notice was issued, a hearing was held by telephone conference call on August 22, 2006. The claimant did not participate personally but submitted a written statement in lieu of personal testimony. The employer participated by Owner Jamey Kelly.

FINDINGS OF FACT:

Having heard the testimony of the witness and having examined all of the evidence in the record, the administrative law judge finds: Diana Rivera-Belle was employed by Kelly beginning

February 2003. She was a part-time custodian. The number of hours she worked fluctuated according to the number of clients and their particular requirements.

Ms. Rivera-Belle had been working for four different clients in Ames, Iowa, but the company lost three of the four. After that, the claimant was working 22 hours per week at Monsanto Seed. At the end of June, this client announced it was closing two of the three buildings cleaned by Ms. Rivera-Belle and her hours were reduced to eight per week. She filed for unemployment benefits with an effective date of June 25, 2006.

Subsequent to the filing of the claim, on or about August 3, 2006, the employer may have offered other jobs to the claimant, which she refused.

#### REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant is able and available for work and eligible for unemployment benefits.

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".

There is nothing in the record to indicate the claimant is not able and available for work. Her hours were reduced due to a client closing two of the three buildings she cleaned. Ms. Rivera-Belle appears to have transportation, and no health or child care problems. She is able and available to work to the same extent she was during her base period.

The issue of whether the claimant refused an offer of work should be remanded for determination.

#### DECISION:

The representative's decision of July 26, 2006, reference 01, is affirmed. Diana Rivera-Belle is able and available for work and eligible for unemployment benefits.

The issue of whether the claimant refused an offer of work on or about August 3, 2006, is remanded to the Claims Section for determination.

bgh/kjw