

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DWIGHT L HARGROVE
Claimant

APPEAL NO. 10A-UI-00563-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CHAD FREEMAN CONSTRUCTION INC
Employer

OC: 07/12/09
Claimant: Appellant (4)

Section 96.4(3) – Able and Available

STATEMENT OF THE CASE:

Dwight Hargrove filed an appeal from a representative's decision dated January 7, 2010, reference 05, which denied benefits effective December 6, 2009 on a finding that he was still employed by Chad Freeman Construction, Inc. as originally hired. After due notice was issued, a hearing was held by telephone on February 22, 2010. Mr. Hargrove participated personally. The employer did not respond to the notice of hearing.

ISSUE:

At issue in this matter is whether Mr. Hargrove is available for work within the meaning of the law.

FINDINGS OF FACT:

Having heard the testimony and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Hargrove began working for Chad Freeman Construction, Inc. in April of 2009. He worked full time driving a dump truck. He filed an additional claim for job insurance benefits effective December 6, 2009 because he believed he was going to be laid off. However, work continued and he was not laid off until December 27, 2009. He has remained available for work since the layoff.

REASONING AND CONCLUSIONS OF LAW:

In order to receive job insurance benefits, an individual must be able to and available for work. Iowa Code section 96.4(3). When Mr. Hargrove initially filed his additional claim effective December 6, 2009, he was not yet in layoff status. Because he was still working his regular job, he was not available for other work. Therefore, the decision disqualifying him effective December 6, 2009 is correct. However, he has now been officially laid off and is available for other work. Accordingly, benefits are allowed as of December 27, 2009, the effective date of the layoff.

DECISION:

The representative's decision dated January 7, 2010, reference 05, is hereby modified. Mr. Hargrove satisfied the availability requirements of the law effective December 27, 2009. Benefits are allowed as of that date, provided he is otherwise eligible.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/css