

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JACOB W RAY**  
Claimant

**APPEAL NO. 07A-UI-06496-HT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**FOREST CITY FOODS INC**  
Employer

**OC: 12/24/06 R: 02**  
**Claimant: Respondent (1-R)**

Section 96.4(3) – Able and Available

**STATEMENT OF THE CASE:**

The employer, Forest City Foods, filed an appeal from a decision dated June 26, 2007, reference 02. The decision allowed benefits to the claimant, Jacob Ray. After due notice was issued a hearing was held by telephone conference call on July 17, 2007. The claimant did not provide a telephone number where he could be contacted and did not participate. The employer participated by Store Manager Doug Gust.

**ISSUE:**

The issue is whether the claimant is able and available.

**FINDINGS OF FACT:**

Jacob Ray was employed by Forest city Foods from January 2 until February 16, 2007, as a part-time stocker/cashier working 15 to 20 hours per week. He had another full-time job at Winnebago Industries during that time and quit because he realized he could not do both jobs.

**REASONING AND CONCLUSIONS OF LAW:**

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 establish that the claimant is not, in fact, able and available for work. But the real issue with this employer appears to be whether Mr. Ray is disqualified as a result of his separation from employment and that matter should be remanded to the Claims Section for determination.

**DECISION:**

The representative's decision of June 26, 2007, reference 02, is affirmed. Jacob Ray is able and available for work.

The issue of his separation from employment is remanded to the Claims Section for determination.

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Bonny G. Hendricksmeier  
Administrative Law Judge

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Decision Dated and Mailed

bgh/pjs