

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MARTINA SAMANIEGO**  
Claimant

**APPEAL NO. 07A-UI-04127-NT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**TYSON FOODS**  
Employer

**OC: 02-18-07 R: 01  
Claimant: Appellant (2)**

Section 96.5(1) – Voluntary Leaving - Layoff  
Section 96.4 (3) – Able and Available

**STATEMENT OF THE CASE:**

Claimant filed an appeal from a representative's decision dated April 10, 2007, reference 01, which denied unemployment insurance benefits. After due notice was issued, a hearing was held by telephone on May 7, 2007. Claimant participated. Employer participated through Ms. Chase.

**ISSUE:**

The issues in this matter is whether the claimant is working enough hours to affect her availability for unemployment insurance benefits, whether the claimant is still employed at the same hours and wages, and whether the claimant has been separated from employment.

**FINDINGS OF FACT:**

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: The claimant began her employment with Tyson Foods on March 20, 2007, working as a full-time production worker. Claimant continues to be employed in that capacity by Tyson Foods at the time of hearing. Ms. Samaniego was laid off from a previous employment on or about February 18, 2007. At that time, the claimant opened a claim for unemployment insurance benefits. Prior to beginning to perform services for Tyson Foods, after being laid off from her previous employment, the claimant performed no services for any employer and was available to accept immediate employment, if offered. Upon being offered the position with Tyson Foods, Ms. Samaniego immediately accepted the offer of work without limitations.

**REASONING AND CONCLUSIONS OF LAW:**

The administrative law judge concludes, based upon the evidence in the record, that the claimant was able and available for work and actively seeking reemployment effective February 18, 2007, after being laid off from previous employment. The evidence establishes that the claimant was not performing services or otherwise limiting her employability on about February 18, 2007. Claimant applied for and accepted employment with Tyson Foods after being laid off from her previous employment, demonstrating her attachment to the labor market and her availability for work.

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".

871 IAC 24.22(2) provides:

Benefits eligibility conditions. For an individual to be eligible to receive benefits the department must find that the individual is able to work, available for work, and earnestly and actively seeking work. The individual bears the burden of establishing that the individual is able to work, available for work, and earnestly and actively seeking work.

(2) Available for work. The availability requirement is satisfied when an individual is willing, able, and ready to accept suitable work which the individual does not have good cause to refuse, that is, the individual is genuinely attached to the labor market. Since, under unemployment insurance laws, it is the availability of an individual that is required to be tested, the labor market must be described in terms of the individual. A labor market for an individual means a market for the type of service which the individual offers in the geographical area in which the individual offers the service. Market in that sense does not mean that job vacancies must exist; the purpose of unemployment insurance is to compensate for lack of job vacancies. It means only that the type of services which an individual is offering is generally performed in the geographical area in which the individual is offering the services.

For the reasons stated herein, the administrative law judge finds that the claimant has met the availability requirements of law. Benefits are allowed, provided the claimant is otherwise eligible.

**DECISION:**

The representative's decision dated April 10, 2007, reference 01, is hereby reversed. Claimant meets eligibility requirements of the law and is eligible to receive unemployment insurance benefits, provided she meets all other eligibility requirements of the law.

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Terence P. Nice  
Administrative Law Judge

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Decision Dated and Mailed

tpn/kjw