

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**FREDDIE L HARRIS**  
Claimant

**APPEAL NO. 08A-UI-05965-HT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**TYSON FRESH MEATS INC**  
Employer

**OC: 11/04/07 R: 01  
Claimant: Respondent (1-R)**

Section 96.4(3) – Able and Available

**STATEMENT OF THE CASE:**

The employer, Tyson, filed an appeal from a decision dated June 16, 2008, reference 02. The decision allowed benefits to the claimant, Freddie Harris. After due notice was issued, a hearing was held by telephone conference call on July 15, 2008. The claimant did not provide a telephone number where he could be contacted and did not participate. The employer participated by Plant Human Resources Manager Mike LeFevre.

**ISSUE:**

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

**FINDINGS OF FACT:**

Freddie Harris filed an additional claim for unemployment benefits with an effective date of April 13, 2008. He was hired at Tyson on Thursday, April 17, 2008, and worked that day and Friday, April 18, 2008. The claimant he filed for the week ending April 19, 2008, reported \$108.00 in wages.

Mr. Harris worked the next several weeks as scheduled but has been separated from Tyson effective June 27, 2008.

**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".

The claimant was able and available the majority of the week ending April 19, 2008, because he worked only two days out of the seven for this new employer. He properly reported his wages as required.

The issue of the claimant's separation from this employer has not yet been determined and should be remanded.

**DECISION:**

The representative's decision of June 16, 2008, reference 02, is affirmed. Freddie Harris was able and available for the week ending April 19, 2008.

The issue of the claimant's 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/kjw