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CANDACE E MOSLEY

   Claimant,

and

PRAIRIE MEADOWS RACETRACK &
CASINO INC

   Employer.

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HEARING NUMBER: 09B-UI-00749

EMPLOYMENT APPEAL BOARD
DECISION

N O T I C E

THIS DECISION BECOMES FINAL unless (1) a **request for a REHEARING** is filed with the Employment Appeal Board within **20 days** of the date of the Board's decision or, (2) a **PETITION TO DISTRICT COURT** IS FILED WITHIN **30 days** of the date of the Board's decision.

A REHEARING REQUEST shall state the specific grounds and relief sought. If the rehearing request is denied, a petition may be filed in **DISTRICT COURT** within **30 days** of the date of the denial.

SECTION: 96.5(2)a

D E C I S I O N

UNEMPLOYMENT BENEFITS ARE DENIED

The claimant appealed this case to the Employment Appeal Board. The members of the Employment Appeal Board, one member dissenting, reviewed the entire record. The Appeal Board finds the administrative law judge's decision is correct. The administrative law judge's Findings of Fact and Reasoning and Conclusions of Law are adopted by the Board as its own. The administrative law judge's decision is **AFFIRMED.**

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Elizabeth L. Seiser

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Monique F. Kuester

AMG/fnv

DISSENTING OPINION OF JOHN A. PENO:

I respectfully dissent from the majority decision of the Employment Appeal Board; I would reverse the decision of the administrative law judge. The claimant was discharged for allegedly falsifying the reason for her absence. She was at the casino in Tama and had called off work due to inclement weather. The claimant's vehicle needed new tires. It snowed approximately one inch and she didn't trust driving back to Altoona through snow, ice and rain. Although the claimant was aware of the employer's attendance policy (point system); the claimant had only 2 ½ points at the time and did not believe she would be discharged for her two absences. I would conclude that the claimant's reason for not reporting to work was not a falsification; rather, her reason was excusable and did not rise to the legal definition of misconduct. Benefits should be allowed provided she is otherwise eligible.

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John A. Peno

AMG/fnv