

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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**CHRISTOPHER SINENO**  
Claimant

**MYDATT SERVICES INC**  
Employer

**APPEAL NO. 14A-UI-05501-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 04/27/14  
Claimant: Appellant (2-R)**

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Section 96.5-2-a – Discharge

**STATEMENT OF THE CASE:**

The claimant appealed an unemployment insurance decision dated May 22, 2014, reference 02, that concluded he was discharged for misconduct. A telephone hearing was held on June 18, 2014. The parties were properly notified about the hearing. The claimant participated in the hearing. Jeff Downs participated in the hearing on behalf of the employer. Exhibits One through Four were admitted into evidence at the hearing.

**ISSUE:**

Was the claimant discharged for work-connected misconduct?

**FINDINGS OF FACT:**

The claimant worked part time for the employer as a security officer from October 25, 2013, to December 21, 2013.

The claimant received a written warning on December 31, 2013, because he called in absent on November 10, November 14, December 23, December 27, and December 27 and failed to report to work on December 17 without notice to the employer.

The claimant had changed his availability for work to working Friday, Saturday, and Sunday, starting January 1, 2014, due to his school schedule.

The claimant was not scheduled to work again until March 21, April 4, and April 5. The only notification he had that he was on the schedule to work was a phone message that was left for him. He never received the message and did not know he was scheduled to work. He understood that he would be contacted when the employer had work for him again.

The employer discharged the claimant on April 5 after he was absent from work March 21, April 4, and April 5.

**REASONING AND CONCLUSIONS OF LAW:**

The issue in this case is whether the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law.

The unemployment insurance law disqualifies claimants discharged for work-connected misconduct. Iowa Code § 96.5-2-a. The rules define misconduct as (1) deliberate acts or omissions by a worker that materially breach the duties and obligations arising out of the contract of employment, (2) deliberate violations or disregard of standards of behavior that the employer has the right to expect of employees, or (3) carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design. Mere inefficiency, unsatisfactory conduct, failure in good performance as the result of inability or incapacity, inadvertencies or ordinary negligence in isolated instances, or good faith errors in judgment or discretion are not misconduct within the meaning of the statute. 871 IAC 24.32(1).

No willful and substantial misconduct has been proven in this case. The claimant was not aware that he was scheduled to work and understood that he would be contacted if he was scheduled again.

The issue of whether the claimant was available for work due to his school schedule is remanded to the Agency.

**DECISION:**

The unemployment insurance decision dated May 22, 2014, reference 02, is reversed. The claimant is qualified to receive unemployment insurance benefits, if he is otherwise eligible. The issue of whether the claimant was available for work due to his school schedule is remanded to the Agency.

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Steven A. Wise  
Administrative Law Judge

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Decision Dated and Mailed

saw/pjs