

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JESSE S BIG EAGLE**

Claimant

**APPEAL NO. 10A-UI-13859-SW**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**ZMC MIDWEST BURGERS LLC**

Employer

**OC: 08/29/10**

**Claimant: Appellant (2)**

Section 96.5-2-a – Discharge

**STATEMENT OF THE CASE:**

The claimant appealed an unemployment insurance decision dated September 17, 2010, reference 01, that concluded he voluntarily quit employment without good cause attributable to the employer. A hearing was held on January 23, 2011, in Sioux City, Iowa. The parties were properly notified about the hearing. The claimant participated in the hearing with his representative, Frank La Mere, and a witness, Rodney Wabashaw. No one participated in the hearing on behalf of the employer. Exhibits A, B, and C were admitted into evidence at the hearing.

**ISSUE:**

Was the claimant discharged for work-connected misconduct?

**FINDINGS OF FACT:**

The claimant worked for the employer as a line cook and crew member from December 12, 2009, to July 9, 2010.

The claimant was absent from work on July 10, 2010, because he believed he was scheduled to work at 6:00 p.m. but he was actually scheduled to work starting at 8:00 a.m.

When the claimant called in at 4:00 pm on July 10 to confirm his schedule, he was informed by his supervisor that he was discharged for missing work.

**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 absent due to a mix-up on when he was scheduled to work.

**DECISION:**

The unemployment insurance decision dated September 17, 2010, reference 01, is reversed. The claimant is qualified to receive unemployment insurance benefits, if he is otherwise eligible.

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Steven A. Wise  
Administrative Law Judge

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Decision Dated and Mailed

saw/pjs