

STATE OF WISCONSIN
LABOR AND INDUSTRY REVIEW COMMISSION
P O BOX 8126, MADISON, WI 53708-8126 (608/266-9850)

DEAN A SAYLOR, Employee

UNEMPLOYMENT INSURANCE
DECISION

Hearing No. 03004741WR

MCCAIN FOODS USA INC, Employer

**SEE ENCLOSURE AS TO TIME
LIMIT AND PROCEDURES ON
FURTHER APPEAL**

An administrative law judge (ALJ) for the Division of Unemployment Insurance of the Department of Workforce Development issued a decision in this matter. A timely petition for review was filed.

The commission has considered the petition and the positions of the parties, and it has reviewed the evidence submitted to the ALJ. Based on its review, the commission agrees with the decision of the ALJ, and it adopts the findings and conclusion in that decision as its own.

DECISION

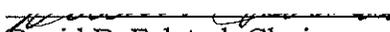
The decision of the administrative law judge is affirmed. Accordingly, the employee's request for hearing is dismissed, and the department's determination remains in effect.

Dated and mailed

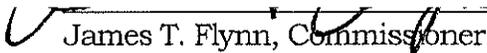
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/s/


David B. Falstad, Chairman

/s/


James T. Flynn, Commissioner

/s/


Robert Glaser, Commissioner

MEMORANDUM OPINION

The employee/appellant failed to appear at the properly noticed hearing on the merits of his claim.

The employee requests a hearing on the issue of whether he had good cause for this failure to appear. However, in order for such a request to be granted, an appellant must offer an explanation for his failure which, if proved, would constitute good cause.

Here, the employee's explanation is that he misread the hearing notice and thought the hearing was at 10:00 a.m. rather than 8:00 a.m., as stated in the notice.

The standard for failing to appear at a hearing is "good cause." This standard has been defined to be "excusable neglect," that is, the neglect a reasonably prudent person might commit in similar circumstances. *Kautzman v. Abraham Isaac & Jacob*, UI Dec. Hearing No. 98606107MW (LIRC Dec. 23, 1998)

Misreading a hearing notice does not constitute good cause, i.e., a reasonably prudent person would have carefully read the hearing notice and properly noted the time at which the hearing was scheduled to commence. *See, e.g., Royster v. Kelly Services, Inc.* (LIRC May 1, 2002).

The commission concludes as a result that further hearing is not merited here.