



Department of Inspections,
Appeals, & Licensing

Iowa Department of Inspections, Appeals, & Licensing
Administrative Hearings Division
6200 Park Avenue, Suite 100, East Entrance
Des Moines, IA 50321-1270

Appeal Decision

Claim Number:

Determination Number:
7531345

Appeal Filed By:
KWIK TRIP INC

Appeal Filed Date:
02/04/2026

Appeals Bureau Docket:
2026001800-AT

[Redacted]

APPEALS DECISION ORDER

Mail Date: April 24, 2026

Appellee

Claimant/Job Seeker:
Claimant address:

Mackenzie Readout

[Redacted]

Appellant

Employer:

Kwik Trip Inc

[Redacted]

Social Security Number:

In regard to the appeal by Kwik Trip Inc:

STATUTORY REFERENCE

DECISION/REMAND

Iowa Code § 96.5(2)a - Discharge for Misconduct
Iowa Code § 96.3(7) - Overpayment of Benefits
Iowa Admin. Code r. 871-24.10 - Employer Participation in Fact-finding Interview

STATEMENT OF THE CASE:

The employer, Kwik Trip, Inc., filed an appeal from the unemployment insurance decision dated January 30, 2026, that held the claimant eligible for unemployment insurance benefits after a separation from employment. After due notice, a telephone hearing was held on April 22, 2026. The claimant, Mackenzie Readout, did not participate. The employer participated through Store Manager Hana Fairchild. The employer's Exhibit 1 was received into evidence. The administrative law judge took official notice of the administrative record.

ISSUES:

Equal Opportunity:

Auxiliary aids and services are available upon request to individuals with disabilities. For deaf and hard of hearing, use Relay 711.



Whether the claimant was discharged for disqualifying, job-related misconduct.

Whether the claimant has been overpaid any unemployment insurance benefits, and if so, whether the repayment of those benefits to the agency can be waived.

Whether any charges to the employer's account can be waived.

FINDINGS OF FACT:

Having reviewed all the evidence in the record, the administrative law judge finds: The claimant worked as a part-time guest service coworker for Kwik Trip, Inc. from October 26, 2023, to January 5, 2026, when she was discharged.

The employer has a written employee manual that contains an attendance policy. Pursuant to the policy, if an employee is going to be unexpectedly absent or late, the employee is required to call their supervisor prior to the start of their shift. The claimant received a copy of the employee manual, and was familiar with the employer's attendance policy.

The claimant was scheduled to work on December 15, December 17, and December 19, 2025. On all three dates, the claimant was a "no call, no show." The claimant had not requested the days off, and she never contacted the employer to provide a reason for her absences. On all three days, the claimant's supervisor tried calling and texting the claimant to find out why she was absent. However, the claimant did not answer or return her supervisor's calls.

On December 22, 2025, the claimant arrived for her scheduled shift. Later that day, the employer called the claimant into a meeting and questioned her about why she had been absent on December 15, December 17, and December 19, 2025. The claimant told the employer that she had overslept on one of the days. However, the claimant did not provide an explanation as to why she had been absent the other two days. At the end of the meeting, the employer issued the claimant a final written warning for her attendance. The disciplinary action warned the claimant that further violations of the employer's attendance policy would result in further discipline, up to and including termination of employment.

On January 7, 2026, the claimant was scheduled to begin working at 2:00 p.m. However, the claimant was again a "no call, no show" on January 7, 2026. The claimant had not requested the day off, and she never contacted the employer to provide a reason for her absence. The claimant's supervisor tried calling the claimant to find out why she was absent. However, the claimant did not return her supervisor's calls. After unsuccessfully trying to coordinate an in-person meeting with the claimant, on January 12, 2026, the employer called and informed the claimant that her employment was being terminated effective immediately due to excessive unexcused absences in violation of the employer's attendance policy.

The claimant's administrative records reflect that the claimant filed her initial claim for benefits with an effective date of January 11, 2026. Since filing her initial claim, the claimant has filed weekly claims for two weeks between February 1, 2026, and February 14, 2026. The claimant has received total unemployment insurance benefits in the amount of \$274. The employer did not participate in the fact finding interview with Iowa Workforce Development because the investigator did not call the employer at the time of the scheduled interview.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was discharged from employment due to job-related misconduct. Benefits are denied.

Iowa Code section 96.5(2)(a) and (d) provide:



An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:

a. The disqualification shall continue until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

...

d. For the purposes of this subsection, "misconduct" means a deliberate act or omission by an employee that constitutes a material breach of the duties and obligations arising out of the employee's contract of employment. Misconduct is limited to conduct evincing such willful or wanton disregard of an employer's interest as is found in deliberate violation or disregard of standards of behavior which the employer has the right to expect of employees, or in carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or even design, or to show an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. Misconduct by an individual includes but is not limited to all of the following:

...

(2) Knowing violation of a reasonable and uniformly enforced rule of an employer.

...

(9) Excessive unexcused tardiness or absenteeism.

Iowa Admin. Code r. 871-24.24(6) provides:

(6) *Excessive unexcused absenteeism*. Excessive unexcused absenteeism is an intentional disregard of the duty owed by the claimant to the employer and shall be considered misconduct except for illness or other reasonable grounds for which the employee was absent and that were properly reported to the employer.

The employer has the burden to prove the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law. *Cosper v. Iowa Dep't of Job Serv.*, 321 N.W.2d 6 (Iowa 1982). The issue is not whether the employer made a correct decision in separating the claimant, but whether the claimant is entitled to unemployment insurance benefits. *Infante v. Iowa Dep't of Job Serv.*, 364 N.W.2d 262 (Iowa Ct. App. 1984). What constitutes misconduct justifying termination of an employee and what misconduct warrants denial of unemployment insurance benefits are two separate decisions. *Pierce v. Iowa Dep't of Job Serv.*, 425 N.W.2d 679 (Iowa Ct. App. 1988). The law limits disqualifying misconduct to substantial and willful wrongdoing or repeated carelessness or negligence that equals willful misconduct in culpability. *Lee v. Emp't Appeal Bd.*, 616 N.W.2d 661 (Iowa 2000).

The employer must prove two elements to establish misconduct based on absenteeism. First, the absences must be excessive. *Sallis v. Emp't Appeal Bd.*, 437 N.W.2d 895 (Iowa 1989). The determination of whether unexcused absenteeism is excessive necessarily requires consideration of past acts and warnings. *Higgins v. Iowa Dep't of Job Serv.*, 350 N.W.2d 187, 192 (Iowa 1984). Second, the absences must be unexcused. *Cosper*, 321 N.W.2d at 10. The requirement of "unexcused" can be satisfied in two ways. An absence can be unexcused either because it was not for "reasonable grounds," *Higgins*, 350 N.W.2d at 191, or because it was not "properly reported," holding excused absences are those "with appropriate notice." *Cosper*, 321 N.W.2d at 10.

Absences due to properly reported illness cannot constitute work-connected misconduct since they are not volitional, even if the employer was fully within its rights to assess points or impose



discipline up to or including discharge for the absence under its attendance policy. Iowa Admin. Code r. 871-24.24(6); *Cosper*, 321 N.W.2d at 9; *Gaborit v. Emp't Appeal Bd.*, 734 N.W.2d 554 (Iowa Ct. App. 2007). An employer's no-fault absenteeism policy or point system is not dispositive of the issue of qualification for unemployment insurance benefits. Absences related to issues of personal responsibility such as transportation, lack of childcare, and oversleeping are not considered excused. *Higgins*, 350 N.W.2d at 191. When a claimant does not provide an excuse for an absence, the absence is deemed unexcused. *Id.* The term "absenteeism" also encompasses conduct that is more accurately referred to as "tardiness." An absence is an extended tardiness; and an incident of tardiness is a limited absence.

An employer is entitled to expect its employees to report to work as scheduled or to be notified in a timely manner as to when and why the employee is unable to report to work. The employer has credibly established that the claimant was warned that her "no call, no show" absences were unacceptable, and that further attendance violations could result in termination of her employment. The record shows that the claimant's final absence was not excused, as the claimant did not call and notify the employer that she would be absent. The claimant's final unexcused absence, in combination with her history of "no call, no show" absences and prior warning, is considered excessive. As such, the administrative law judge concludes that the claimant was discharged for disqualifying, job-related misconduct. Benefits are denied.

The next issues to be determined are whether the claimant has been overpaid benefits, whether the claimant must repay those benefits, and whether the employer's account will be charged. For the reasons that follow, the administrative law judge concludes:

Iowa Code section 96.3(7) provides, in relevant part:

a. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

b. (1) (a) If the department determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund and this credit shall include both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5. The employer shall not be relieved of charges if benefits are paid because the employer or an agent of the employer failed to respond timely or adequately to the department's request for information relating to the payment of benefits. This prohibition against relief of charges shall apply to both contributory and reimbursable employers.

(b) However, provided the benefits were not received as the result of fraud or willful misrepresentation by the individual, benefits shall not be recovered from an individual if the employer did not participate in the initial determination to award benefits pursuant to section 96.6, subsection 2, and an overpayment occurred because of a subsequent reversal on appeal regarding the issue of the individual's separation from employment.

Iowa Admin. Code r. 871-24.10 provides, in relevant part:

Employer and employer representative participation in fact-finding interviews.

(1) "Participate," as the term is used for employers in the context of the initial determination to award benefits pursuant to Iowa Code section 96.6(2), means submitting detailed factual information of the quantity and quality that if unrebutted would be sufficient to result in a decision favorable to the employer. The most effective means to participate is to provide live



testimony at the interview from a witness with firsthand knowledge of the events leading to the separation. If no live testimony is provided, the employer must provide the name and telephone number of an employee with firsthand information who may be contacted, if necessary, for rebuttal. A party may also participate by providing written statements or documents that provide detailed factual information of the events leading to separation. At a minimum, the information provided by the employer or the employer's representative must identify the dates and particular circumstances of the incident or incidents, including, in the case of discharge, the act or omissions of the claimant or, in the event of a voluntary separation, the stated reason for the quit. The specific rule or policy must be submitted if the claimant was discharged for violating such rule or policy. In the case of discharge for attendance violations, the information must include the circumstances of all incidents the employer or the employer's representative contends meet the definition of unexcused absences as set forth in 871—subrule 24.24(7). Written or oral statements or general conclusions without supporting detailed factual information and information submitted after the fact-finding decision has been issued are not considered participation within the meaning of the statute.

The unemployment insurance law provides that benefits must be recovered from a claimant who receives benefits and is later determined to be ineligible for those benefits, even though the claimant acted in good faith and was not otherwise at fault. However, the overpayment will not be recovered when it is based on a reversal on appeal of an initial determination to award benefits on an issue regarding the claimant's employment separation if: (1) the benefits were not received due to any fraud or willful misrepresentation by the claimant and (2) the employer did not participate in the initial proceeding to award benefits. The employer will not be charged for benefits if it is determined that they did participate in the fact-finding interview. Iowa Code § 96.3(7).

In this case, the benefits were not received due to any fraud or willful misrepresentation by the claimant. Additionally, the employer did not participate in the initial proceeding to award benefits because it did not receive a telephone call when the fact finding interview was conducted. As such, the employer cannot be charged for the overpayment and the claimant is not required to repay the \$274 in unemployment insurance benefits she has received. The overpayment shall be absorbed by the fund. See Iowa Code § 96.3(7)(b)(1)(a).

DECISION:

The January 30, 2026, unemployment insurance decision is REVERSED. The claimant was discharged for substantial job-related misconduct. Unemployment insurance benefits funded by the State of Iowa are denied until the claimant has worked in and been paid wages for insured work equal to ten times her weekly benefit amount after the January 5, 2026, separation date, and provided she is otherwise eligible.

The claimant has been overpaid unemployment insurance benefits in the amount of \$274, but is not obligated to repay the agency those benefits. The employer's account shall not be charged due to the employer not being contacted to participate in the fact-finding interview. The overpayment in this matter is chargeable to the fund.



Patrick Thomas

Patrick THOMAS

Administrative Law Judge

Iowa Department of Inspections, Appeals, & Licensing

Administrative Hearings Division

Unemployment Insurance Appeals Bureau

Please see the last page of this document for important information about reopening the appeal and further appeal rights.



INSTRUCTIONS FOR FILING AN APPEAL

If you disagree with the decision, you or any interested party may:

1. Appeal to the Employment Appeal Board within fifteen (15) days of the date under the judge's signature by submitting a written appeal via mail, fax, or online to:

Employment Appeal Board
6200 Park Avenue Suite 100
Des Moines, IA 50321
Fax: (515)281-7191
Online: IowaWORKS account

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

AN APPEAL TO THE BOARD SHALL STATE CLEARLY:

1. A reference to the decision from which the appeal is taken.
2. That an appeal from such decision is being made and such appeal is signed.
3. The grounds upon which such appeal is based.

An Employment Appeal Board decision is final agency action. If a party disagrees with the Employment Appeal Board decision, they may then file a petition for judicial review in district court.

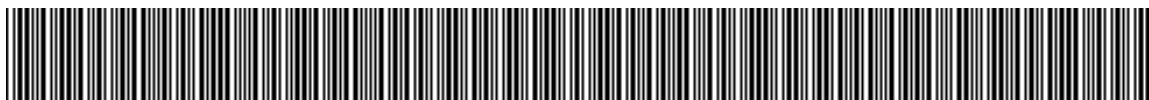
2. If no one files an appeal of the judge's decision with the Employment Appeal Board within fifteen (15) days, the decision becomes final agency action, and you have the option to file a petition for judicial review in District Court within thirty (30) days after the decision becomes final. Additional information on how to file a petition can be found at Iowa Code 17A.19, which is online at <https://www.legis.iowa.gov/docs/code/17a.19.pdf> or by contacting the District Court Clerk of Court <https://www.iowacourts.gov/iowa-courts/court-directory/>.

Note to Parties: YOU MAY REPRESENT yourself in the appeal or obtain a lawyer or other interested party to do so provided there is no expense to Iowa Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds.

Note to Claimant: It is important that you file your weekly claim as directed, while the appeal is pending, to protect your continuing right to benefits.

SERVICE INFORMATION:

A true and correct copy of this decision was mailed to each of the parties listed.



Babel Notice – Claim and Appeal Information

Aviso: Aviso: Documento De Beneficios Del Seguro De Desempleo
Y Información De Apelación

IMPORTANT!

This document contains important information about your unemployment compensation rights, responsibilities and/or benefits. It is critical that you understand the information in this document. **DEADLINE FOR APPEAL:** If you disagree with this determination or decision, you must file an appeal before the deadline noted in this document. **IMMEDIATELY:** If needed, call 866-239-0843 for assistance in the translation and understanding of the information in the document(s) you have received.

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Este documento contiene información importante sobre sus derechos, obligaciones y/o beneficios de compensación por desempleo. Es muy importante que usted entienda la información contenida en este documento. **PLAZO LÍMITE PARA APELAR:** Si usted está en desacuerdo con esta determinación o decisión, debe presentar una apelación antes del plazo límite indicado en este documento. **INMEDIATAMENTE:** Si necesita asistencia para traducir y entender la información contenida en el documento(s) que recibió, llame al 866-239-0843.

重要提示！

这份文件包含有关失业补偿的权利、责任和/或利益的重要信息。您需要理解本文件中的信息，这一点至关重要。

上诉截止日期：如果您不同意本裁定或决定，您必须在本文件所载截止日期前提出上诉。**立即：**如果需要，请拨打866-239-0843，可获得帮助，以利您翻译和理解所收到的文件中的信息。

IMPORTANT!

Ce document contient des informations importantes sur vos droits d'allocation de chômage, vos responsabilités et/ou vos bénéfices. Il est indispensable que vous compreniez le contenu de ce document. **DATE LIMITE POUR FAIRE APPEL:** Si vous n'êtes pas d'accord avec cette détermination ou décision, vous devrez faire un appel avant la date limite signalée dans ce document. **IMMÉDIATEMENT:** Si nécessaire, téléphonez au 866-239-0843 pour avoir de l'assistance sur la traduction et/ou la compréhension de ce document.

WICHTIG!

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IMPORTANTE!

Ang mga dokumentong ito ay naglalaman ng mahalagang impormasyon tungkol sa iyong mga karapatan na makatanggap ng kabayaran, mga responsibilidad at /o benepisyo dahil sa pagkawala ng trabaho. Napakahalagang maunawaan mo ang mga impormasyong nilalaman sa dokumentong ito. **HULING ARAW PARA UMAPILA:** Kung hindi ka sumasang-ayon sa pagpapasiya o desisyon, dapat kang maghabol o magharap ng apila bago dumating ang huling araw na nabanggit sa dokumentong ito. **KAAGAD:** Kung kinakailangan ang tulong, tumawag sa 866-239-0843 para sa pagsasalin ng wika at pag-unawa ng impormasyon sa mga dokumentong natanggap mo.

IMPORTANTE:

Questo documento contiene informazioni importanti sui Suoi diritti di indennizzo di disoccupazione, sulle sue responsabilità e i suoi benefit. E' cruciale che Lei comprenda appieno le informazioni contenute in questo documento. **SCADENZA PER IL RICORSO:** Se non si trova in accordo con questa determinazione o decisione, dovrà presentare ricorso prima della scadenza riportata nel presente documento. **INMEDIATAMENTE:** In caso di necessità chiami il 866-239-0843 per assistenza alla traduzione e comprensione delle informazioni contenute nei documenti ricevuti.

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Dokumenty mogą zawierać ważne informacje o Pana(-i) prawach do zasiłków dla bezrobotnych, obowiązków i/lub świadczeń. Zrozumienie informacji zawartych w niniejszym dokumencie jest bardzo ważne. **DATA WYGAŚNIĘCIA TERMINU SKŁADANIA ODWOŁAŃ:** Jeśli nie zgadza się Pan(-i) z decyzją zawartą w niniejszym dokumencie, odwołanie należy złożyć przed datą wygaśnięcia terminu wyszczególnionego w treści niniejszego dokumentu. **NATYCHMIAST:** W razie potrzeby, należy dzwonić pod 866-239-0843 w celu uzyskania pomocy w tłumaczeniu i zrozumieniu informacji w dokumentach, które Pan(i) otrzymał(-a).

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ໝາງເຫລອ ສາ

ູ່ສຳຄັນ! ເອກະສານນີ້ປະກອບດ້ວຍຂໍ້ມູນທີ່ສຳຄັນກ່ຽວກັບສິດທິການຊົດເຊີຍການຫວ່າງງານ, ຄວາມຮັບຜິດຊອບ ແລະ/ຫຼືຜົນປະໂຫຍດຂອງທ່ານ. ມັນເປັນສິ່ງ ສຳ ຄັນທີ່ທ່ານຕ້ອງເຂົ້າໃຈຂໍ້ມູນໃນເອກະສານນີ້. ກຳນົດເວລາການອຸທອນ: ຖ້າທ່ານບໍ່ເຫັນດີກັບການກຳນົດ ຫຼືການຕັດສິນໃຈນີ້, ທ່ານຕ້ອງອ້ອນອຸທອນກ່ອນກຳນົດເວລາທີ່ລະບຸໄວ້ໃນເອກະສານນີ້. ທັນທີ: ຖ້າຕ້ອງການ, ໃຫ້ໃບຫາ 866-239-0843 ສຳລັບການຊ່ວຍເຫຼືອໃນການແປ ແລະຄວາມເຂົ້າໃຈຂອງຂໍ້ມູນໃນເອກະສານທີ່ທ່ານໄດ້ຮັບ.

هام!

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