



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:
[REDACTED]
Determination Number:
7470494
Appeal Filed By:
SUPERIOR CARE IOWA, INC.
Appeal Filed Date:
12/22/2025
Appeals Bureau Docket:
2025151001-AT

[REDACTED]

APPEALS DECISION ORDER

Mail Date: March 13, 2026

Appellee

Claimant/Job Seeker: AMARI MCCUTCHEON
Claimant address: [REDACTED]

Appellant

Employer: [REDACTED] Superior Care Iowa, Inc.

Social Security Number: [REDACTED]

In regard to the appeal by SUPERIOR CARE IOWA, INC.:

STATUTORY REFERENCE

DECISION/REMAND

Iowa Code § 96.5(2)a - Discharge
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, Superior Care Iowa, Inc., filed an appeal from a decision of a representative dated December 15, 2025, that held the claimant eligible for unemployment insurance benefits after a separation from employment. After due notice, a telephone hearing was held on March 9, 2026. The claimant, Amari McCutcheon, participated personally. The employer participated through Owner Susan Young. The administrative law judge took official notice of the administrative record.

ISSUES:

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

Equal Opportunity:

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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:

The administrative law judge, having heard the testimony and considered all the evidence in the record, finds: The claimant worked as a part-time caregiver for Superior Care Iowa, Inc. from March 14, 2025, to November 30, 2025, when she was discharged. As a caregiver, the claimant was responsible for traveling to clients' homes and assisting the clients with their activities of daily living.

The employer has a written employee manual that contains an attendance policy. Pursuant to the policy, if an employee is sick or unable to work, the employee is required to text or call the employer prior to the start of their shift to notify the employer of their absence. The claimant was familiar with the employer's attendance policy.

During the summer and early-fall of 2025, the claimant called out several times shortly before the start of her shift due to vehicle trouble. While the employer instructed the claimant several times that she needed to provide the employer more notice when she was going to be absent, the employer did not issue the claimant any formal discipline concerning her attendance.

In early-September 2025, the employer became concerned that the claimant was calling out absent too often. On September 8, 2025, the employer placed the claimant on a 60-day performance improvement plan (PIP). Pursuant to the PIP, the claimant was required to report to all of her scheduled shifts for the next 60-days. After being placed on the PIP, the claimant worked hard to meet the employer's attendance expectations. During the 60-day PIP period, the claimant successfully reported to all of her scheduled shifts. On or around November 8, 2025, the employer informed the claimant that she had successfully completed the PIP.

On November 30, 2025, the claimant was scheduled to work at a client's home at 2:00 p.m. During the night of November 29 and into the morning of November 30, 2025, there was a significant snow storm in the claimant's town. At approximately 12:50 p.m. on November 30, 2025, the employer texted the claimant stating that the client's road was clear, and that the employer expected the claimant to be at the client's home at 2:00 p.m. Approximately 10-minutes later, the claimant responded that she intended to report for her shift. However, she stated that the roads in her area were just starting to get plowed, so she might arrive late for her shift.

The employer responded to the claimant's text message by expressing skepticism that the roads in the claimant's area had not yet been plowed. The employer then asked the claimant to send a picture of the roads. The claimant, offended by the employer's text message, refused to send a picture. She then asked the employer whether she would be fired if she failed to arrive at her shift by 2:00 p.m. The claimant and the employer texted back-and-forth for a time. However, ultimately, the employer texted something to the effect of, "If you do not arrive at work in the company vehicle you do not have a job." The claimant did not feel comfortable driving until the roads were clear, so she did not report for her shift. Rather, the claimant moved the company vehicle to a public parking lot approximately one-block from her home and then informed the employer where the vehicle was parked. After retrieving the company vehicle, the employer informed the claimant that her employment was terminated.

The claimant's administrative record reflects that the claimant filed her original claim for benefits with an effective date of October 12, 2025. Since filing her initial claim, the claimant has filed weekly claims for 13 weeks between October 12, 2025, and January 10, 2026. The claimant has received total unemployment insurance benefits in the amount of \$2,135.37. The employer participated in the fact-finding interview with Iowa Workforce Development.

REASONING AND CONCLUSIONS OF LAW:



For the reasons that follow, the administrative law judge concludes the claimant was discharged from employment for no disqualifying reason. Benefits are allowed.

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:

...

(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.

Iowa Admin. Code r. 871-24.24(7) provides:

(7) Past acts of misconduct. While past acts and warnings can be used to determine the magnitude of a current act of misconduct, a discharge for misconduct cannot be based on such past act or acts. The termination of employment must be based on a current act.

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.

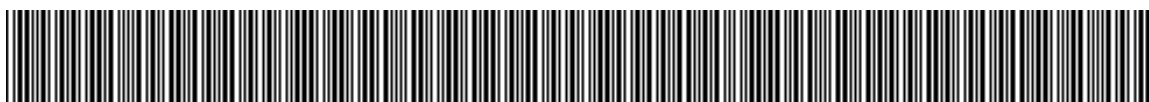
Absences due to properly reported illness or injury cannot constitute work-connected misconduct since they are not volitional, even if the employer was fully within its rights to assess points or impose discipline up to or including discharge for the absence under its attendance policy. Iowa Admin. Code 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.

It is the duty of the administrative law judge as the trier of fact in this case, to determine the credibility of witnesses, weigh the evidence and decide the facts in issue. *Arndt v. City of LeClaire*, 728 N.W.2d 389, 394-395 (Iowa 2007). The administrative law judge may believe all, part or none of any witness's testimony. *State v. Holtz*, 548 N.W.2d 162, 163 (Iowa App. 1996). In assessing the credibility of witnesses, the administrative law judge should consider the evidence using his or her own observations, common sense and experience. *Id.* In determining the facts, and deciding what testimony to believe, the fact finder may consider the following factors: whether the testimony is reasonable and consistent with other believable evidence; whether a witness has made inconsistent statements; the witness's appearance, conduct, age, intelligence, memory and knowledge of the facts; and the witness's interest in the trial, their motive, candor, bias and prejudice. *Id.*

The findings of fact show how I have resolved the disputed factual issues in this case. I assessed the credibility of the witnesses who testified during the hearing, considering the applicable factors listed above, and using my own common sense and experience. The administrative law judge found the claimant's testimony, particularly concerning her text message conversation with the employer on November 30, 2025, to be more specific, detailed, and better supported by other believable evidence. For this reason, I gave greater weight to the claimant's version of events than to the employer's version of events.

The employer has not established that the claimant had excessive absences or tardiness that would be considered unexcused for purposes of unemployment insurance eligibility. To disqualify an individual from unemployment insurance benefits, an employer must establish that the most recent incident leading to the individual's discharge was a current act of misconduct. In this case, the most recent act for which the claimant was discharged was for calling out of work due to snowy and icy conditions on November 30, 2025. The claimant's absence on November 30, 2025, was for a reasonable ground—being unable to drive on an un-plowed, snow-covered road—and the claimant properly reported her absence. The claimant notifying the employer that she might be late due to dangerous conditions is not misconduct.

What is more, after the claimant successfully completed the 60-day PIP, the employer never warned or disciplined the claimant about the issue leading to the separation. As a result, the employer has not met the burden of proof to establish that the claimant acted deliberately or with recurrent negligence in violation of company policy, procedure, or prior warning. An employee is entitled to fair warning that the employer will no longer tolerate certain performance and conduct. Without fair warning, an employee has no reasonable way of knowing that there are changes that need to be made in order to preserve the employment. If an employer expects an employee to conform to certain expectations or face discharge, appropriate, detailed, and reasonable notice



should be given. As such, benefits are allowed, provided the claimant is otherwise eligible.

Because the claimant is eligible for benefits, the issues of overpayment, repayment, and chargeability are moot.

DECISION:

The December 15, 2025, unemployment insurance decision is AFFIRMED. The claimant was discharged from employment on November 30, 2025, for no disqualifying reason. Benefits are allowed, provided the claimant is otherwise eligible. The issues of overpayment, repayment, and chargeability are moot.



Patrick THOMAS

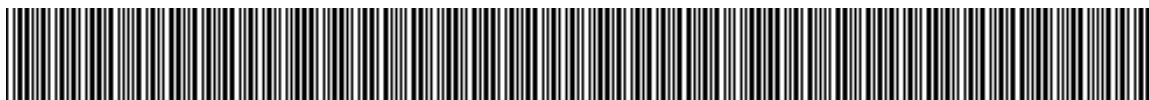
Administrative Law Judge

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.

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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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Tài liệu này chứa đựng tin tức quan trọng về quyền hạn, trách nhiệm và/hoặc những lợi lộc được đền bù trong khi thất nghiệp. Đó là điều tối cần thiết mà quý vị phải hiểu rõ những tin tức trong tài liệu này. **HẠN CHÓT KHIẾU NẠI:** Nếu quý vị không đồng ý với quyết định này, quý vị phải nộp đơn khiếu nại trước hạn chót ghi rõ trong tài liệu này. **MỘT CÁCH NHANH CHÓNG:** Nếu cần xin hãy gọi số 866-239-0843 để được giúp đỡ trong việc phiên dịch và hiểu rõ những tin tức trong tài liệu quý vị đã nhận.

중요!

이 문서는 실업보상 권리, 책임 및/또는 혜택에 대한 중요한 정보가 포함되어 있습니다. 이 문서에 있는 정보를 이해 하는 것은 매우 중요합니다. **항소 마감:** 이 결정에 이견이 있으시면 항소인은 문서에 언급된 마감일 전에 항소를 제기하셔야 합니다. **즉시:** 받으신 문서의 번역 및 이해를 위해서 도움이 필요하시면 866-239-0843 로연락을 하시기 바랍니다.

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VAŽNO!

Ovaj dokument sadrži važne informacije o vašim pravima za naknadu nezaposlenosti, odgovornostima i/ili beneficijama. Veoma je važno da shvatite informacije u ovom dokumentu. **ROK ZA ŽALBU:** Ako se ne slažete s ovim određivanjem ili odlukom, morate uložiti žalbu prije roka navedenog u ovom dokumentu. **ODMAH:** Ako je potrebno, nazovite 866-239-0843 za pomoć u prijevodu i razumijevanju informacija u dokumentu(ima) kojeg ste primili.

ໝາາງເຫລອ ສາ

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

هام!

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