

**Iowa Employment Appeal Board**  
6200 Park Avenue, Suite 100  
Des Moines, Iowa 50321-1270

Determination Number:  
7470494  
Appeals Bureau Docket:  
2025151001-AT  
Appeal Filed By:  
Superior Care Iowa, Inc.  
Appeal Filed Date:  
03/25/2026  
Employment Appeal Board Docket:  
2026000353-AB



**STATE OF IOWA EMPLOYMENT APPEAL BOARD DECISION**

Mail Date: April 22, 2026

Claimant/Job Seeker: AMARI MCCUTCHEON                      Employer: Superior Care Iowa, Inc.

In regard to the appeal by Superior Care Iowa, Inc.:

**Decision**

**FINDINGS OF FACT**

The Claimant worked for the Employer as a part-time caregiver from March 14, 2025, to November 30, 2025, when she was discharged. As a caregiver, the Claimant assisted clients with their daily activities in their homes. Many of the Employer's clients are elderly and vulnerable.

The Employer has a written 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 the shift to notify the Employer of their absence. The Claimant was aware of the policy.

During the summer and early-fall of 2025, the Claimant was absent with short notice several times due to vehicle trouble. The Employer issued verbal warnings regarding these incidents. The Employer eventually allowed the Claimant to use a company car to drive to her shifts so she would have reliable transportation.

By early-September 2025, the Employer was still concerned that the Claimant was 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. On or around November 8, 2025, the Employer informed the claimant that she had successfully completed the PIP.

On approximately November 23, 2025, the Claimant was absent from work again with short notice.

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. At approximately 12:54 p.m. on November 30, 2025, Employer's owner, Susan Young, sent a text message to the Claimant stating that the client's road had been plowed and that the Claimant was expected to arrive at the home in time for 2:00 p.m. shift. Approximately ten minutes later, the Claimant responded that she had already informed the client's son

*Equal Opportunity:*

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



that she might be late as the roads in her area were just being plowed. That set off a back and forth text exchange between Young and the Claimant. Young informed the Claimant that Employer had numerous other employees that were able to get to work on time that morning. Young asked the Claimant to send a picture of the street she lived on. The Claimant was offended by that request and refused to do so. Young informed the Claimant that if she did not arrive on time to work in the company car, that she would no longer have a job. The Claimant responded by moving the company car to a nearby parking lot and not attempting to go to work.

**CONCLUSIONS OF LAW:**

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.

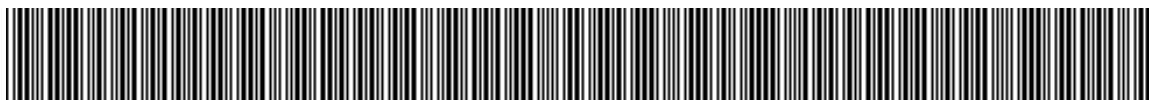
Iowa Admin. Code r. 871-24.24(6) provides:

(6) Excessive unexcused absenteeism. Excessive unexcused absenteeism is an intentional disregard of the claimant's duty to the employer and is considered misconduct except for illness or other reasonable grounds so long as 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 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.

In this case, the Employer established it ended the Claimant's employment due to excessive, unexcused



absenteeism. The Board finds the last absence was not for reasonable grounds. Rather than even attempt to make it to work in a timely manner, the Claimant chose to be insubordinate toward the Employer and not even try. While driving to work after a snow storm can be a challenge, it is a challenge that all Iowans face. Despite the snow storm, other employees were able to make it to work in the same metro under similar driving conditions. So it was not unreasonable or disrespectful for the Employer to request a photograph of the conditions on the Claimant's street. The Claimant was able to move the company car from its parking spot to a nearby parking lot, bolstering the finding that the roads were not impassable. But more importantly, the snow was not the issue that prevented the Claimant from making it to work. The Claimant made a choice not to go to work rather than follow the Employer's instructions. These are not reasonable grounds under the law.

The Claimant's last unexcused absence, in combination with her record of absenteeism, qualifies as excessive absenteeism. The Employer put the Claimant on a performance improvement plan regarding her attendance, so the Claimant either was or should have been well aware that her last absence would result in termination. The Employer established the Claimant was terminated for misconduct.

Since the Administrative Law Judge allowed benefits and in so doing affirmed a decision of the claims representative the Claimant falls under the double affirmance rule:

Iowa Admin. Code rule 23.43(3) provides:

Rule of two affirmances.

a. Whenever an administrative law judge affirms a decision of the representative or the employment appeal board of the Iowa department of inspections and appeals affirms the decision of an administrative law judge, allowing payment of benefits, such benefits shall be paid regardless of any further appeal.

b. However, if the decision is subsequently reversed by higher authority:

(1) The protesting employer involved shall have all charges removed for all payments made on such claim.

(2) All payments to the claimant will cease as of the date of the reversed decision unless the claimant is otherwise eligible.

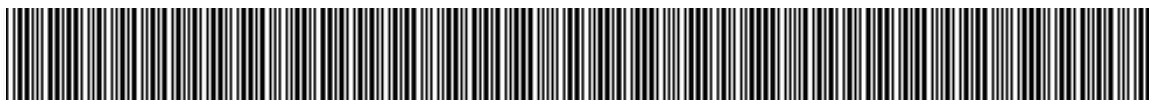
(3) No overpayment shall accrue to the claimant because of payment made prior to the reversal of the decision.

Thus, the Employer's account may not be charged for any benefits paid so far to the Claimant for the weeks in question, but the Claimant will not be required to repay benefits already received.

#### **DECISION:**

The administrative law judge's decision is **REVERSED**. The Employment Appeal Board concludes that the Claimant was discharged for disqualifying misconduct. Accordingly, she is denied benefits until such time the Claimant has worked in and has been paid wages for insured work equal to ten times the Claimant's weekly benefit amount, provided the Claimant is otherwise eligible. See, Iowa Code section 96.5(2)(a).

No remand for determination of overpayment need be made under the double affirmance rule, 871 IAC 23.43(3), but still the Employer's account may not be charged.





Rendered and signed 4/21/2026, in Des Moines, Iowa.

**IOWA EMPLOYMENT APPEAL BOARD MEMBERS**



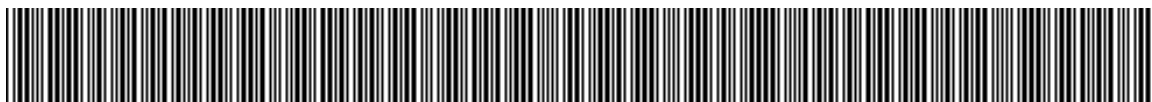
Ashley KOOPMANS  
Board Member



Myron LINN  
Board Member

James STROHMAN  
Board Member

Please see next page for important information about further appeal rights.



**NOTICE**

This decision is final unless you file (1) a Request for Rehearing with the Employment Appeal Board within **20 days** of the date of the Board's decision, OR (2) a Petition for Judicial Review with the District Court within **30 days** of the date of the Board's decision. If your Request for Rehearing is denied, you may file a Petition for Judicial Review with the District Court within **30 days** of the denial.

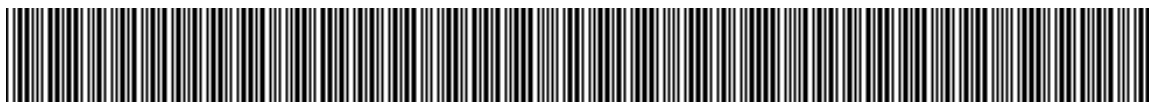
**REQUEST FOR REHEARING.** Filing a Request for Rehearing through IowaWORKS.gov is the fastest option. Login to your account and click on "Rehear Request" at the bottom of the decision you disagree with.

You may also send a written Request for Rehearing to the Employment Appeal Board at the contact information below:

**Iowa Employment Appeal Board  
6200 Park Ave Suite 100  
Des Moines, Iowa 50321  
Fax: (515)281-7191  
Email: eab.appeals@eab.iowa.gov**

Your Request for Rehearing should clearly state your reason for requesting rehearing.

**DISTRICT COURT.** You may also file a Petition for Judicial Review with the District Court within **30 days** of the Board's decision. Information on how to file a petition is in Iowa Code §17A.19, which is online at <https://www.legis.iowa.gov/docs/code/17A.19.pdf>. You may also contact the District Court Clerk of Court <https://www.iowacourts.gov/iowa-courts/court-directory/>.



## **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.

### **¡IMPORTANTE!**

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!**

Diese Dokument enthält wichtige Hinweise zu ihren Rechten, Pflichten bzw. Leistungen im Rahmen der Arbeitslosenunterstützung. Es ist entscheidend, dass Sie die Informationen in diesem Dokument verstehen. **FRIST ZUR BESCHWERDEEINLEGUNG:** Wenn Sie mit der Feststellung oder Entscheidung nicht einverstanden sind, müssen Sie vor Ablauf der in diesem Dokument aufgeführten Frist eine Beschwerde einlegen. **SOFORT:** Sofern erforderlich, rufen Sie die Telefonnummer 866-239-0843 an und erkundigen sich nach Hilfsdiensten bei der Übersetzung und zum Verständnis der Informationen in dem (den) von Ihnen erhaltenen Dokument(en).

### **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.

### QUAN TRỌNG:

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.

### WAŻNE!

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).

### ВАЖНО!

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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.

### ໝາງເຫລ ສາ

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### هام!

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