

Chronic Absenteeism and Employer Policy Violations Now Preclude Employees from Collecting Unemployment Compensation Benefits

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With the stroke of the Governor's pen, it is now easier for employers to show that employees were terminated for "misconduct" and should be disqualified for unemployment compensation benefits under Florida's Unemployment Compensation Law. Misconduct, under the Amended Law, now includes such things as chronic absenteeism or tardiness and violations of employer policies, under certain circumstances. Also, added to the definition of misconduct are employees' willful violations of state standards or regulations that would cause the employer to be sanctioned or its Florida license or certification to be suspended. Not only did the Amended Law add these three new categories of misconduct, but it also relaxed the standard employers must meet to show misconduct under an existing category of misconduct. Instead of showing an employee engaged in "willful and wanton disregard" of an employer's interests, an employer must now only show "conscious disregard" to disqualify the employee from benefits. Carelessness to a degree that manifests culpability or wrongful intent is still a category of misconduct, but the statute has been amended so that carelessness to a degree that manifests an "evil design" has been excluded. And, another big win for employers is that the misconduct no longer has to occur at work or during working hours. These changes are effective for all employment separations on or after June 27, 2011, the date the Governor signed the law.

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