STATE OF MICHIGAN
UNEMPLOYMENT INSURANCE APPEALS COMMISSION

In the Matter of

[redacted] Appeal Docket No.: [redacted]25-002235

Claimant, UIA Case No.: [redacted]

[redacted]

Employer.

DECISION OF UNEMPLOYMENT INSURANCE APPEALS COMMISSION

This case is before the Unemployment Insurance Appeals Commission (Commission) pursuant to the claimant's timely appeal from a July 14, 2025 decision by an Administrative Law Judge (ALJ). The ALJ's decision affirmed a February 13, 2025 Unemployment Insurance Agency (Agency) redetermination and found the claimant disqualified for benefits under the misconduct provision of the Michigan Employment Security Act (Act), Section 29(1)(b). Section 29(1)(a) of the Act, the voluntary leaving provision, was included in the notice of hearing.

Having reviewed the record in this matter, we find the ALJ's decision must be reversed and the claimant held not disqualified for benefits under Section 29(1)(b) of the Act. Our reasons are as follows.

While employers may discharge a claimant for many reasons or for no reason at all, discharge, in and of itself, does not disqualify a claimant from unemployment insurance benefits. The conduct that led to the discharge must be misconduct to disqualify a claimant from benefits.

Section 29(1)(b) of the Act provides as follows:

> (1) Except as provided in subsection (5), an individual is disqualified from receiving benefits if he or she:
>
> (b) Was suspended or discharged for misconduct connected with the individual's work or for intoxication while at work.

The Michigan Supreme Court has defined misconduct as follows:

> [C]onduct evincing such willful or wanton disregard of an employer's interests as is found in deliberate violations or disregard of standards of behavior which the employer has the right to expect of his employee, or in carelessness or negligence of such degree or recurrence as to manifest equal culpability, wrongful intent or evil design, or to show an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to his employer. On the other

> hand mere inefficiency, unsatisfactory conduct, failure in good performance as the result of inability or incapacity, inadvertencies or ordinary negligence in isolated instances, or good-faith errors in judgment or discretion are not to be deemed "misconduct" within the meaning of the statute.

Carter v Employment Security Comm, 364 Mich 538; 111 NW2d 817 (1961), Commission Digest 12.01.

When the issue is misconduct, the employer bears the burden of proof. See *Bell v Employment Security Comm*, 359 Mich 649; 103 NW2d 584 (1960), Commission Digest 12.02. In order to meet that burden, the employer must introduce evidence that establishes by a preponderance that the claimant engaged in misconduct. See *Fresta v Miller*, 7 Mich App 58; 151 NW2d 181 (1967), Commission Digest 12.61. Misconduct exists when the actions that resulted in the claimant's discharge fall within the definition set forth in *Carter, supra*.

However, once the employer submits evidence of a number of absences which, if unsupported by sufficient reasons, are so excessive as to constitute misconduct within the meaning of Section 29(1)(b) of the Act, then the burden shifts to the claimant to provide a legitimate explanation for the absences. *Veterans Thrift Stores, Inc v Krause*, 146 Mich App 366, 368; 379 NW2d 495 (1985). As a matter of law, "absences resulting from events beyond the employee's control or which are otherwise with good cause cannot be considered conduct in willful or wanton disregard of the employer's interests." *Washington v Amway Grand Plaza*, 135 Mich App 652, 658; 354 NW2d 299 (1984) citing *Carter, supra.*

First, as a preliminary matter, we note that the ALJ made an error in the participants portion and in the exhibits portion of her decision. In the participants portion of the ALJ's decision, she failed to list an employer witness, [redacted], who was present at the July 9, 2025 hearing. Additionally, the ALJ failed to list Exhibit A, a two-page document, which outlined the employer's attendance policy. That exhibit was properly marked and admitted by the ALJ into evidence. We correct those errors accordingly.

Next, we turn to the underlying separation issue. In the instant matter, the claimant provided credible testimony and rebutted the employer's assertion that she failed to appear for work and did not contact the employer for three consecutive work days that included December 7, 2024, December 9, 2024, and December 10, 2024. As a result, we agree with the ALJ in not applying the voluntary leaving provision of the Act, Section 29(1)(a), as we find that the claimant did not engage in a three consecutive work day no call and no show in this matter.

The record reflects that the claimant was actually discharged from employment by the employer for attendance issues, and we agree with the ALJ that the misconduct discharge provision of the Act, Section 29(1)(b), is applicable here.

The employer indicated that the claimant was absent from employment on December 7, 2024, December 9, 2024, and December 10, 2024. We find that the employer established that the attendance occurrences were excessive, and the burden of proof then shifted to the claimant to provide legitimate explanations for those events.

The claimant testified that she was scheduled to work December 7, 2024, but did not work because she had a very bad migraine. She also stated that she called and sent a text message to the employer prior to her shift and informed the employer that she could not work that day because she was not feeling well. The claimant stated that she was scheduled to work on December 9, 2024, but was again experiencing a migraine and called the employer prior to her shift and reported the absence. As for December 10, 2024, the claimant indicated that she did not recall if that was one of her scheduled work days. However, she explained that if she was scheduled to work that day, she would have called the employer to report any absence.

Consequently, we find that the claimant provided legitimate explanations for the three attendance occurrences, and point out that two of the absences were due to illness and were outside of the claimant's control. The claimant's attendance occurrences cannot be considered conduct in willful or wanton disregard of the employer's interest. As a result, the claimant met her burden of proof. Based on the foregoing, we find that the claimant is not disqualified under Section 29(1)(b) of the Act.

IT IS THEREFORE ORDERED that the ALJ's decision is REVERSED.

The claimant is not disqualified for benefits under the misconduct provision of the Act, Section 29(1)(b).

The claimant may receive benefits if otherwise eligible and qualified.

This matter is referred to the Agency for action consistent with this decision.

Alejandra Del Pino

Alejandra Del Pino, Commissioner

Andrea C. Rossi

Andrea C. Rossi, Commissioner

William J. Runco

William J. Runco, Commissioner

MAILED AT LANSING, MICHIGAN December 30, 2025

This decision shall be final unless EITHER (1) the Unemployment Insurance Appeals Commission RECEIVES a written request for rehearing on or before the deadline, OR (2) the appropriate circuit court RECEIVES an appeal on or before the deadline. The deadline is:

TO PROTECT YOUR RIGHTS, YOU MUST BE ON TIME. January 29, 2026