

Attached is a decision of the Unemployment Insurance Appeals Commission (Commission). This decision **WILL BECOME FINAL** unless further action is taken by you. It is important that you pay attention to all filing deadlines. The mailed date and the filing deadline can be found at the bottom of the last page of the Commission decision.

The Michigan Employment Security Act (The Act) provides three separate options for seeking relief from decisions or final orders of the Commission.

1. APPEALS TO CIRCUIT COURT

You may appeal a final order or decision of the Commission to Circuit Court within **30 days** after the mailed date of the decision.

An appeal of a final decision to Circuit Court can be filed in the county in which the claimant resides or the circuit court of the county in which the claimant's place of employment is or was located, or, if a claimant is not a party to the case, the circuit court of the county in which the employer's principal place of business in this state is located. Application for review shall be made within 30 days after mailing a copy of the order or decision by any method permissible under the rules and practices of the circuit courts of this state. **Circuit court claims of appeal are to be filed with the clerk of the appropriate circuit court.**

2. REHEARING

You may file for rehearing with the Commission within **30 days** after the mailed date of the decision. A party requesting a rehearing shall serve the request on all other parties at the time of filing with the Commission.

The Act provides that the Commission may, either upon application by an interested party for rehearing or on its own motion, proceed to rehear, affirm, modify, set aside, or reverse a prior decision on the basis of the evidence previously submitted or on the basis of additional evidence. An application for rehearing must be submitted within **30 days** of the mailed date by personal service, postal delivery, electronic delivery, or facsimile transmission to the contact information shown at the bottom of the page.

3. REOPENING

You may file for reopening with the Commission **after** the 30-day appeal period expires but within 1 year after the date of mailing.

The Act provides that the Commission may, for good cause, reopen and review a prior decision and issue a new decision **after** the 30-day appeal period has expired, but a review shall not be made unless the request is filed with the Commission, or review is initiated by the Commission with notice to the interested parties, within 1 year after the date of mailing of the prior decision. A request for reopening must be submitted by personal service, postal delivery, electronic delivery, or facsimile transmission to the contact information shown at the bottom of this page.

STATE OF MICHIGAN
DEPARTMENT OF LABOR AND ECONOMIC OPPORTUNITY
UNEMPLOYMENT INSURANCE APPEALS COMMISSION
P.O. Box 30475
Lansing, MI 48909-7975
1-800-738-6372 or (517) 284-9300
Fax: (517) 241-7326
www.michigan.gov/uiac
LEO-UIAC-Info@michigan.gov

STATE OF MICHIGAN
UNEMPLOYMENT INSURANCE APPEALS COMMISSION

In the Matter of

██████████

Appeal Docket No.: ██████████ 25-002927

Claimant,

UIA Case No.: ██████████

██████████

Employer.

DECISION OF THE UNEMPLOYMENT INSURANCE APPEALS COMMISSION

This case is before the Unemployment Insurance Appeals Commission (Commission) on the claimant's timely appeal of a September 19, 2025 Administrative Law Judge (ALJ) decision. The decision affirmed an August 25, 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). After reviewing the record, the Commission finds that the ALJ's decision should be reversed.

The claimant began working for the employer in early 2025. The claimant was employed as a crew member. The claimant last performed services for the employer on or about May 27, 2025 at which time he was discharged.

The prerogative to discharge an employee rest with the employer. However, the fact that an employer discharges an employee does not necessarily mean that the claimant is disqualified for benefits under the misconduct provision. See *Hagenbuch v Plainwell Paper Co, Inc*, 153 Mich App 834; 396 NW2d 556 (1986). For a discharged employee to be disqualified, the employer must establish the reason for the discharge amounts to misconduct within the meaning of Section 29(1)(b) of the Act.

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

- (1) 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:

[C]onduct evincing such wilful 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. *Carter v Michigan Employment Sec Comm*, 364 Mich 538; 111 NW2d 817 (1961)

Notably, the Michigan Supreme Court specifically excluded some conduct from its broad definition:

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. *Id.* at 541.

When the issue is misconduct, the employer bears the burden of proof. See *Bell v Appeal Bd of Mich Employment Sec Comm*, 359 Mich 649; 103 NW2d 584 (1960). To meet that burden, the employer must introduce evidence which establishes by a preponderance that the claimant engaged in misconduct. See *Fresta v Miller*, 7 Mich App 58; 151 NW2d 181 (1967). Misconduct exists when the conduct which resulted in the claimant's discharge falls within the definition set forth in *Carter*, *supra*.

The employer discharged the claimant because on or about May 23, 2025 the claimant, instead of wearing a proscribed hairnet, wore a do-rag.¹ The claimant then purportedly swore at the assistant manager when asked to remove the do-rag and to wear a hairnet. On this basis, the claimant was discharged and, according to the employer, should be disqualified for benefits under Section 29(1)(b). The Commission does not agree.

When questioned about the matter, the claimant acknowledged that he was wearing a do-rag on the date in question. However, the claimant denied that he swore when asked to remove it. The claimant also testified, without rebuttal, that he had worn the do-rag during the entire time that he was employed. Meaning, the evidence in the record indicates that the employer did not enforce a hairnet policy. Consequently, the Commission cannot find that the claimant's failure to comply with this purported policy cannot form the basis for a finding of misconduct. Accordingly, the ALJ's decision will be reversed.

Therefore,

IT IS ORDERED that the ALJ's May 12, 2025 decision is reversed.

IT IS FURTHER ORDERED that the claimant is not disqualified for benefits under the misconduct provision of the Act, Section 29(1)(b).

IT IS FURTHER ORDERED that the claimant may receive benefits if otherwise eligible and qualified.

¹ The employer failed to introduce its dress code was not entered into the record.

IT IS FURTHER ORDERED that this matter is referred to the Agency for action consistent with this decision.



George Wyatt III, Commissioner



Mikhail Albuseiri, Commissioner



William J. Runco, Commissioner

MAILED AT LANSING, MICHIGAN January 22, 2026

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. February 23, 2026

English

IMPORTANT! This document(s) contains important information about your unemployment compensation rights, responsibilities and/or benefits. It is critical that you understand the information in this document.

IMMEDIATELY: If needed, call 1-866-500-0017 for assistance in the translation and understanding of the information in the document(s) you have received.

Arabic

مهم! نم. كعدئ اوف وأ / و كعدئ ايل وؤس جو كئ اطلبنا تاضريوعت قوقح نع مدم تامول عم ىلع (قئ اتول) قئ يتول هذه ايرتحت ا مهم دنسمل ا اذه يف كدراول تامول عمل مهفت نأ

(قئ اتول) قئ يتول ا يف تامول عمل مهفو تم جرت يف كدع اسملل 1-866-500-0017 ىلع لصرتا، رمأل ازل اذ: روفلا ىلع اهت يقلت يتلا

Spanish

¡IMPORTANTE! Este (s) documento (s) contiene información importante sobre sus derechos, responsabilidades y / o beneficios de compensación por desempleo. Es fundamental que entienda la información de este documento.

INMEDIATAMENTE: Si es necesario, llame al 1-866-500-0017 para obtener ayuda en la traducción y comprensión de la información en el documento (s) que ha recibido.

Mandarin

重要！ 本文件包含有关您的失业补偿权利，责任和/或利益的重要信息。了解本档中的信息至关重要。

立即： 如果需要，请致电1-866-500-0017以协助翻译和了解您收到的文件中的信息。

Albanian

E rëndësishme! Ky dokument përmban informacione të rëndësishme për të drejtat, përgjegjësitë dhe / ose përfitimet e papunësisë. Është e rëndësishme të kuptojmë informacionin në këtë dokument.

Menjëherë: Nëse është e nevojshme, telefononi 1-866-500-0017 për të ndihmuar në përkthimin dhe kuptimin e informacionit në dokumentet që keni marrë.