

# Tardiness Can Count as 'Misconduct' That Bars UI Benefits

Under Florida law, employees who are fired can't collect unemployment compensation if you fired them for "misconduct." Unfortunately, the law doesn't clearly define misconduct.

*The good news:* A new Court of Appeals ruling has helped clarify the term, and it includes "excessive tardiness" among the acceptable examples of misconduct.

Now, your employees can't argue that tardiness and missing work aren't grounds for dismissal and refusal to agree to unemployment compensation.

**Case in point:** Rosy De La Torre, an account manager for a mortgage lender, received a verbal warning about her tardiness. The company offered her a new schedule, allowing her to come to work a half hour later than usual. When she still couldn't make it to work on time, it fired her.

Based on her "misconduct," she was denied unemployment benefits. She filed an appeal, but the Court of Appeals concluded that tardiness, if excessive, is considered misconduct that bars unemployment benefits. (*De La Torre v. New Century Mortgage Corporation*, No. 3D05-2698, Court of Appeals of Florida, 2006)

**Tip:** To show that you take tardiness seriously, clearly state your policy and consider using progressive discipline. Make sure you define excessive tardiness and track employees' compliance.

## Florida's unemployment comp law defines 'Misconduct' as:

- Conduct demonstrating willful or wanton disregard of an employer's interests, as is found in deliberate violation or disregard of standards of behavior the employer has the right to expect of employees.
- Carelessness or negligence to a degree or recurrence as to manifest culpability, wrongful intent or evil design, or that shows an intentional and substantial disregard of the employer's interests or the employee's duties and obligations to his employer.