

Unemployment Benefits Denied for “No Call, No Shows”

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The Michigan Court of Appeals recently determined that, under the Michigan Employment Security Act (“MESA”), a three day no call, no show is a voluntary leave without good cause which disqualifies claimants from unemployment benefits and rejected the argument that the facts and circumstances of the no call, no show must be considered.

In *Wilson v. Meijer Great Lakes LP and UIA*,¹ the Claimant-Employee was arrested and held in jail. The Respondent-Employer’s policy required employees to call-in absences at least one-hour before the start of a scheduled shift. On his second day in jail, the Employee called and reported that he would be absent. However, the Employee was unable to call-in for the next three consecutive working days, and he was terminated pursuant to the Employer’s no call, no show policy.

The Unemployment Insurance Agency (“UIA”) denied the Employee’s claim for unemployment benefits for leaving work without good cause attributable to the employer. Under MESA Section 29(1)(a) – “an individual who is absent from work for a period of three consecutive work days or more without contacting the employer in a manner acceptable to the employer and of which the individual was informed at the time of hire is considered to have voluntarily left work without good cause attributable to the employer.”

After an appeal to the Circuit Court, the Michigan Court of Appeals granted leave to appeal and upheld the UIA’s decision. The Court determined that, whether or not a good policy, the statutory language requires that a three day no call, no show is a voluntary leaving without good cause. In doing so, the Court rejected the Employee’s argument that particular facts and circumstances of a no call, no show must be considered when determining whether the employee left work without good cause attributable to the employer.

The bottom line is that employers can consider a no call, no show for three consecutive days a voluntary job abandonment and challenge any UIA benefits charges under the voluntary leaving provision of the MESA without regard to the reason why the employee was a no call, no show.

¹ Ct. App. Docket No. 19-000711-AE (July 1, 2021).

Employers with any additional questions about UIA benefit charges or the implications of voluntary or involuntary separations of employment should contact any member of **Bodman's Workplace Law Group**. Bodman cannot respond to your questions or receive information from you without first clearing potential conflicts with other clients. Thank you for your patience and understanding.

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