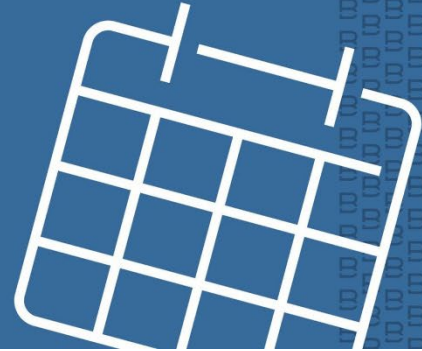


The Work Week

News from the
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From No Show to No Unemployment Benefits: What a Recent Minnesota Ruling Teaches Employers About Attendance and Misconduct

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A ghosting employee—the worker who simply stops showing up, offers zero communication, and later acts surprised when their absence triggers disciplinary action—presents a variety of unique issues for an employer. When that same former employee later files for unemployment benefits, the frustration multiplies. Companies are routinely left wondering whether a single administrative hiccup or a contested timeline will prevent them from successfully defending against claims that never should have materialized in the first place. Defending these unmerited claims isn't just about winning an isolated battle over unemployment-benefits costs; it's about protecting your organization's unemployment insurance tax experience rating from unnecessary, preventable spikes.

A [recent decision](#) from the Minnesota Court of Appeals provides a welcome dose of common sense for employers navigating these exact disputes. In *Neely vs. Bemidji Candlewood LLC*, the court reinforced a fundamental principle of workplace law: When an employee intentionally ignores a company's reasonable attendance policy and fails to report for scheduled shifts without notice, that behavior crosses the line from routine friction into disqualifying employment misconduct.

The underlying dispute arose after a hotel, temporarily closed for remodeling following tornado damage, called its housekeeping staff back to their regular schedules. A housekeeper failed to show up for multiple consecutive shifts and did not provide advance notice as required by company policy. When management attempted to coordinate a meeting to address the unexcused absences, the employee bypassed the supervisor, showed up on the wrong day, relied on informal word from a front-desk worker rather than management, and was subsequently discharged.

The worker sought unemployment benefits through the Minnesota Department of Employment and Economic Development, but the department denied her claim. She appealed by writ of certiorari to the Minnesota Court of Appeals. The appellate court affirmed that the employer's clear attendance standards, combined with documented text messages and firsthand testimony establishing the worker's knowledge of her schedule, provided substantial evidence of misconduct. Crucially, here, the court gave heavy weight to the employer's contemporaneous digital paper trail, noting that the manager's text-message logs effectively neutralized the employee's shifting timeline and self-serving excuses. Under state law, an employee's knowing refusal to follow reasonable workplace policies or report for scheduled shifts without notice is a serious violation of what an employer can rightly expect.

While this ruling is a victory for employer accountability, it also underscores how crucial contemporaneous documentation is when defending an unemployment claim. To ensure your organization is protected when attendance issues lead to separation, keep these best practices in mind:

- **Maintain Clear, Written Attendance Protocols:** Ensure your employee handbook explicitly defines call-out procedures, required notice windows (such as two hours prior to a shift), and the exact method for communicating absences to management.
- **Preserve Communication Trails:** Save text-message logs, emails, and timecard records immediately when attendance problems arise. Contemporaneous digital paper trails are often the decisive factor when a judge evaluates credibility during an administrative hearing.
- **Centralize Return-to-Work Directives:** When recalling staff from temporary closures, seasonal layoffs, or medical leaves, deliver scheduling instructions through documented, verifiable channels rather than relying on word-of-mouth or casual conversations.
- **Require Direct Management Sign-Off for Schedule Changes:** Instruct frontline staff that schedule questions and shift modifications must be cleared through designated leadership, preventing employees from leaning on casual statements from co-workers to justify absences.

Unemployment claims involving attendance do not have to be an uphill battle. Proactive documentation and clear policies ensure your organization stays protected when an unexcused absence leads to a separation.

Whether you are managing attendance policies across Minnesota, the Dakotas, or beyond, Bassford Remele's award-winning [Labor and Employment Practice Group](#) is here to help with these issues and more. Please reach out to discuss ways that we can help you protect your business or protect your rights.

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