



After you are Hurt at Work: What Actions Constitute Misconduct?

Florida's Workers' Compensation insurance companies are required to provide indemnity (lost wage) benefits to injured employees who are hurt at work and placed on no work or assigned restrictions that their employer cannot accommodate. However, exceptions to this requirement exist, including allegations of an injured employee's misconduct.

What is employee misconduct? The Florida Workers' Compensation definition of employee misconduct *was* identical to the definition used by the Agency for Workforce Innovation when determining an employee's entitlement, or lack thereof, to unemployment benefits. However, on June 27, 2011, Florida's Governor Rick Scott signed into law reforms which drastically change the definition of misconduct under Florida's Unemployment Compensation Laws.

These changes now consider employee misconduct to include:

Any action that demonstrates conscious disregard of an employer's interests and is found to be a deliberate disregard or violation of reasonable standards of behavior, and may include activities *that did not occur at the workplace or during working hours*. Other new changes also include chronic absenteeism or tardiness; willful and deliberate violation of a state standard or regulation which would jeopardize the employer's Florida license or certification; and violation of an employer's rules under certain circumstances.

This extends misconduct to activities that occur during an employee's personal time outside of the workplace. The new law also makes it easier for employers to prove misconduct by reducing the standard from "willful and wanton disregard" of an employer's interests to "conscious disregard of an employer's interest." It will now be easier for employers to show that employees were discharged for misconduct and not entitled to unemployment benefits.

How long will it be before Florida employers lobby to change the Workers' Compensation definition and deny lost wage/indemnity benefits after an employee is hurt at work?

If you are hurt at work, suffer a work place injury or are otherwise concerned about your rights, contact us to learn what you can do to prevent your employer from denying benefits due under the law.

Contact us at aneuwelt@franksandkoenig.com; call us at 1-877-WE-CANHELP (932-2643) or visit us on the web at <http://www.franksandkoenig.com>