



Docket No.: 22-064192
Case No.: 39896430
Employer: CITY OF ANN ARBOR
Claimant: TIMOTHY RUGG
SSN: XXXXXXXXXX

TIMOTHY RUGG

HIGHLAND, MI 48357

This is an important legal document. Please have someone translate the document.

هذه وثيقة قانونية مهمة. يرجى أن يكون هناك شخص ما يترجم المستند.

এটি একটি গুরুত্বপূর্ণ আইনি ডকুমেন্ট। দয়া করে কেউ দস্তাবেজ অনুবাদ করুন।

Este es un documento legal importante. Por favor, que alguien traduzca el documento.

这是一份重要的法律文件。请让别人翻译文件。

Ky është një dokument ligjor i rëndësishëm. Ju lutem, kini dikë ta përktheni dokumentin.

ORDER

The Agency's October 13, 2022 Adjudication is reversed.

The claimant is not disqualified from receiving benefits pursuant to Section 29(1)(b) of the Michigan Employment Security Act (Act).

The claimant is entitled to benefits for each claimed week following the filing for benefits, if otherwise eligible and qualified.

**DENISE MCNULTY
ADMINISTRATIVE LAW JUDGE**

Decision Date: July 19, 2023

Order is final unless you take action within 30 days – see instructions below.

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PARTICIPANTS

		07-17-23					
		Sworn		Sworn		Swo	
Claimant	TIMOTHY RUGG	X	X				
Representative							
Witness							
Witness							
Witness							
Witness							
Employer	City of Ann Arbor						
Representative							
Witness	None						
Witness							
Witness							
Witness							
Witness							
Witness							
Witness							

EXHIBITS

NO	SUBMITTED BY			DOCUMENT DATED	FORM NO	DOCUMENT DESCRIPTION
	UIA	E	C			



JURISDICTION

On November 14, 2022, the claimant timely appealed an October 13, 2022 Unemployment Insurance Agency Adjudication which held the claimant disqualified for benefits under Section 29(1)(b) of the Michigan Employment Security Act (Act). Requalification by rework was also required under Section 29(3).

ISSUE

Is the Claimant disqualified because of a discharge or suspension for misconduct pursuant to Section 29(1)(b) of the Act?

APPLICABLE LAW

Section 29 of the Act provides:

(1) Except as provided in subsection (5), 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.

"Misconduct" is not defined in the statute but Courts have defined the term. In *Carter v Michigan Employment Security Commission*, 364 Mich 538 (1961), the Supreme Court adopted the definition of misconduct in *Boynton Cab Company v Neubeck*, 296 NW 636, 640 (Wis 1941) which states as follows:

The term 'misconduct'... is limited to conduct evincing such willful 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. 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. *Carter, supra*, at 541.

The Employer has the burden of demonstrating misconduct by a preponderance of the evidence. *Fresta v Miller*, 7 Mich App 58, 63-64 (1967).

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FINDINGS OF FACT

The claimant began working for the employer on May 6, 1999. He last worked full-time as an inspector/investigator. The claimant last performed services on November 19 2021. On December 19, 2021 the employer discharged the claimant.

The claimant disagreed with the employer's allegations that led to his discharge. He did his job to the best of his ability. The claimant did not intentionally do anything to harm the employer. He did not deliberately violate any work rule, policy or procedure. The employer was not present for the hearing.

REASONING AND CONCLUSIONS OF LAW

Based on the record and the relevant law, it is found that the claimant was discharged. Although the employer had the burden of proof, they did not participate in the Hearing. Therefore, the record consists solely of the claimant's testimony. His unrebutted and credible testimony contained no evidence of wrongdoing or disregard of the employer's interest.

The claimant is not disqualified for benefits under the misconduct provision, Section 29(1)(b), of the Act. The Agency Adjudication is reversed.

IMPORTANT: TO PROTECT YOUR RIGHTS, YOU MUST BE ON TIME

This Order will become final 30 days after the date of mailing unless an interested party takes ONE of the following actions: (1) files a written, signed, request for rehearing/reopening to the Administrative Law Judge, or by an office or agent office of the agency OR (2) files a written, signed, appeal to the Unemployment Insurance Appeals Commission at P.O. Box 30475, Lansing, MI 48909-7975 (Facsimile: 517-241-7326); OR (3) files a direct appeal, upon stipulation, to the Circuit Court.

If you elect to file an appeal with the Unemployment Insurance Appeals Commission, your appeal should be filed within the deadline set forth in my decision/order. **Your appeal may be submitted to the Commission by US mail or fax. Additionally, you may file an appeal electronically by completing a fillable form on the Commission's website.** The website address is <https://www.michigan.gov/uiac> and that website includes instructions on how to file the appeal. Do not use your MiWAM account through the Unemployment Insurance Agency's online system to file an appeal to the Commission.

A copy of this order has been sent on the day it was signed, to each of the parties at their respective addresses on record.

(SEE ATTACHED SHEET FOR FURTHER APPEAL RIGHTS)

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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

أر "هام! يحتوي هذا المستند (المستندات) على معلومات هامة عن حقوقك الخاصة بتعويضات البطالة، ومسؤولياتك، وواجباتك من المهام. كما أن فهم البيانات الواردة في هذا المستند على الفور: إذا كنت بحاجة إلى مساعدة اتصل بالرقم 1-866-500-0017 للحصول على مساعدة في ترجمة وفهم المعلومات الواردة في المستند (المستندات) التي تلقيتها"

Bengali

"গুরুত্বপূর্ণ এই তথ্যপত্রে আপনার বেকার ভাতা অধিকার, দায়িত্ব এবং/অথবা সুবিধাগুলি সম্পর্কে গুরুত্বপূর্ণ সূচনা দেওয়া আছে। এটা গুরুত্বপূর্ণ যে, এই তথ্যপত্রে থাকা সূচনাগুলি আপনি ভালো করে বুঝে নেবেন। অবিলম্বে: আপনি যে তথ্যপত্র(গুলি) পেয়েছেন এতে থাকা সূচনাগুলি বুঝা এবং অনুবাদের ক্ষেত্রে সাহায্য পেতে প্রয়োজনানুসারে 1-866-500-0017 নম্বরে ফোন করুন।"

Spanish

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

INMEDIATAMENTE: Si necesita asistencia para traducir y entender la información contenida en el documento(s) que recibió, llame al 1-866-500-0017.

Mandarin

重要提示！这份文件包含有关失业补偿的权利、责任和/或利益的重要信息。您需要理解本文件中的信息，这一点至关重要。立即：如果需要，请拨打1-866-500-0017，可获得帮助，以帮助您翻译和理解所收到的文件中的信息。

Albanian

1. "E RËNDËSISHME! Ky dokument (dokumente) përmban informacion të rëndësishëm mbi të drejtat, përgjegjësitë dhe/ose përfitimet tuaja nga kompensimi i papunësisë. Është shumë e rëndësishme që ta kuptoni informacionin në këtë dokument.
2. **MENJËHERË.**Nëse është e nevojshme, telefononi në numrin 1-866-500-0017 për t'ju ndihmuar me përkthimin dhe kuptimin e informacionit të dokumentin (dokumenteve) që keni marrë."

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REQUEST FOR REHEARING OR REOPENING BEFORE AN ADMINISTRATIVE LAW JUDGE

When the appeal to the Administrative Law Judge (ALJ) has been dismissed for lack of prosecution or a party is possession of newly discovered material information not available when the case was heard by the ALJ, the party may request rehearing in writing before the ALJ instead of appealing to the Unemployment Insurance Appeals Commission (Commission). A request for rehearing must be signed by the requesting party or their agent and **RECEIVED** by the Michigan Office of Administrative Hearings and Rules (MOAHR) at **3026 West Grand Boulevard, 2nd Floor Annex, Ste 2-700, Detroit, MI 48202; or by fax, 517-763-0135; or by Email at MOAHRUA@michigan.gov**, or by an office or agent office of the agency, within 30 calendar days after the date of this decision. The party requesting rehearing must also serve the request on the opposing party. A rehearing request received (as described above) more than 30 days after the decision is mailed, shall be treated as a request for reopening.

The ALJ may, for good cause, reopen and review this decision and issue a new decision or issue a denial of rehearing/reopening.

If a request for rehearing or reopening is not received by MOAHR, and an appeal to the Commission is not submitted, the hearing decision becomes final.

APPEAL TO THE UNEMPLOYMENT INSURANCE APPEALS COMMISSION

The Unemployment Insurance Appeals Commission (Commission) consists of up to seven members appointed by the governor and is not part of the Unemployment Insurance Agency (UIA).

An appeal to the Commission shall be in writing and signed by the party or his/her agent and **RECEIVED** directly by the COMMISSION within 30 days after the mailing of the ALJ's hearing decision or order denying rehearing or reopening. A timely appeal or request for rehearing/reopening may be made by personal service, postal delivery (**P.O. Box 30475, Lansing, MI 48909-7975**), facsimile transmission (**517.241.7326**), or other electronic means as prescribed by the Commission.

The timely appeal/request may also seek to present additional evidence in connection with the appeal or request an oral argument before the Commission. The Commission may consider written argument only if all parties are represented; by agreement of the parties; the Commission orders oral argument; or the Commission orders evidence be produced before it. For additional information, please review the Mich Admin Code, Rules 792.11416 through 792.11429 or visit <http://www.michigan.gov/lara/0,4601,7-154-35738--,00.html>.

An appeal cannot be requested by telephone, but information about the appeal process can be obtained by calling (800) 738-6372 or visiting http://www.michigan.gov/documents/uiia_UC1800_76144_7.pdf.

BY-PASS OF COMMISSION/DIRECT APPEAL TO THE CIRCUIT COURT

A party may by-pass appealing to the Commission and appeal a decision or final order of an ALJ directly to a circuit court in the county in which the Claimant resides or in the county in which the Claimant's place of employment is (or was) located, or if the Claimant is not a party to the case, the circuit court in the county in which the employer's principal place of business in this state is located, if the parties (Claimant and Employer), or their respective authorized agents/attorneys, sign a timely written stipulation agreeing to the direct appeal to the circuit court. **The stipulation must be mailed to the Michigan Office of Administrative Hearings and Rules, 3026 W. Grand Blvd, 2nd Floor Annex, Suite 2-700, Detroit, Michigan 48202.** Application for review to a circuit court must be made within 30 days after the mailing date decision or final order by any method permissible under the rules and practices of the circuit court.

The responsibility for properly and timely filing an appeal with the clerk of the circuit court rests with the party filing the appeal.

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