

**Contesting Attendance Related Unemployment Compensation Claims**

**October 2005**

An employee will be denied unemployment compensation when an employer proves the claimant's pattern of absence amounted to "willful misconduct." CT Public Act 04-214.

To prove "willful misconduct" the employer must show the employee was absent either without "good cause," *or* without "notice to the employer, which the employee could reasonably have provided under the circumstances," on 3 "separate instances" within a 12 month period.

Further, each 2 consecutive day period of absence is counted as a "separate instance."

For example, if an employee is absent for 3 consecutive days it counts as 2 "instances."

"Good cause" is defined under the Act as "any compelling personal circumstance which would normally be recognized by the individual's employer as a proper excuse for absence, or which would prevent a reasonable person under the same conditions from reporting to work."

Examples include personal illness, a serious isolated transportation problem over which the employee had no control, or a sudden event requiring the person to address a compelling personal emergency.

"Notice" is defined as notification "through any reasonable method and within any reasonable timeframe prescribed by the employer." Even when an employee has "good cause" a failure to provide "notice" will result in the absence being counted as an "instance." CT Reg. § 31-236-26d.

Tardiness is handled separately and is considered “willful misconduct” only if the pattern of tardiness constitutes either “willful disregard of the employer’s interest,” or “a knowing violation of a reasonable and uniformly enforced rule or policy.” CT Reg. § 31-236-28.

For more information contact [scott@schaffer-law.com](mailto:scott@schaffer-law.com) or (860) 216-1965.

[www.schaffer-law.com](http://www.schaffer-law.com)