

**MINNESOTA SUPREME COURT CLARIFIES STANDARD FOR “EMPLOYEE MISCONDUCT” IN
MINNESOTA UNEMPLOYMENT CASES**

In a decision issued on April 20, 2011, the MN Supreme Court held that a former employee may be denied unemployment benefits for engaging in statutorily-defined “employment misconduct” even though the employer may not have followed its own progressive discipline policy when it terminated the employee. Stagg v. Vintage Place, Inc.

Stagg began working for Vintage Place in November 2007. At the time he was hired, Vintage Place had a five-step disciplinary policy in its employee manual. Between November 2007 and January 2009, Stagg had numerous problems with tardiness or absences. In most instances, but not every one, Vintage followed its progressive discipline policy. Vintage terminated Stagg on January 29, 2009, after he called in the previous day after his shift began and advised them he had overslept.

Stagg filed a claim for Minnesota unemployment benefits. Vintage challenged the claim alleging they terminated Stagg for “employment misconduct”. The MN Department of Employment and Economic Development (DEED) denied Stagg’s claim for unemployment benefits and he appealed to an unemployment law judge (ULJ). The ULJ upheld the denial of unemployment benefits. Stagg appealed to the MN Court of Appeals. The MN Court of Appeals reversed. Relying on its 1984 decision in Hoemberg v. Watco Publishers, Inc., they held that Stagg reasonably expected Vintage to follow its five-step disciplinary policy in its handbook, and because Vintage skipped the fourth step, Stagg’s absence did not amount to “employee misconduct”.

The MN Supreme Court reversed the Court of Appeals and specifically overruled its holding in Hoemberg. The high court concluded the Court of Appeals applied an improper standard, noting the exclusive definition of “employment misconduct” in Minnesota’s unemployment statute focuses on *the employee’s conduct*, not the employer’s.¹ The test for determining “employment misconduct” is whether “the employee clearly displays ‘a serious violation of the standards of behavior the employer has the right to reasonably expect of the employee’”.

Call me or any of the other attorneys in our firm’s Employment Law practice group if you have any questions about the Stagg case or other employment law questions.

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¹ The MN Supreme Court noted the while an employer’s failure to follow the progressive discipline policy in its employee manual was not relevant to an employee’s unemployment claims, it would be relevant to an employee’s claims against an employer. In such cases, the court would examine whether an employee handbook constitutes a contract between an employer and employee, and whether an employer breached that contract by failing to act in accordance with the terms of the employee handbook.