STATE OF FLORIDA
REEMPLOYMENT ASSISTANCE APPEALS COMMISSION

In the matter of:

Claimant/Appellee

R.A.A.C. Order No. 13-06171

vs.

Referee Decision No. 13-43477U

Employer/Appellant

ORDER OF REEMPLOYMENT ASSISTANCE APPEALS COMMISSION

This case comes before the Commission for disposition of the employer's appeal pursuant to Section 443.151(4)(c), Florida Statutes, of a referee's decision which held the claimant not disqualified from receipt of benefits.

That portion of the referee's decision addressing the nonappearance issue is supported by the record and in accord with the law and, therefore, shall not be disturbed.

Pursuant to the appeal filed in this case, the Reemployment Assistance Appeals Commission has conducted a complete review of the evidentiary hearing record and decision of the appeals referee. *See* §443.151(4)(c), Fla. Stat. By law, the Commission's review is limited to those matters that were presented to the referee and are contained in the official record.

The issue before the Commission is whether the claimant voluntarily left work without good cause attributable to the employing unit or was discharged by the employer for misconduct connected with work within the meaning of Section 443.101(1), Florida Statutes.

The referee's pertinent findings of fact state as follows:

> The claimant worked as a medical supervisor from [June] 1998 until February 14, 2013, for the employer, the fire rescue division of a county government. The claimant was accused of engaging in inappropriate texting and sexual activity on county property while on duty. The claimant received assurances that if she cooperated with the investigation into the matter that she would be

> disciplined but not discharged. The claimant cooperated with the investigation. The claimant's sexual conduct with co-workers was reported in both print and broadcast media on February 13, 2013. The employer discharged the claimant for sexual activity with co-workers the very next day.

Based on these findings, the referee found the claimant was discharged for reasons other than misconduct connected with work. Upon review of the record and the arguments on appeal, the Commission concludes the referee's factual findings are supported by competent and substantial evidence and are therefore approved. The issues in this appeal concern several of the conclusions reached by the referee in his decision, including his ultimate conclusion that the employer did not prove that the claimant engaged in misconduct within the meaning of the reemployment assistance law.

When the issue before the appeals referee relates to the claimant's separation from employment, the employer bears the initial burden of proving either the claimant was discharged for misconduct connected with the work or the claimant voluntarily quit, in which case the burden shifts to the claimant to show good cause for the quitting. *See Lewis v. Lakeland Health Care Ctr., Inc.,* 685 So. 2d 876, 878 (Fla. 2d DCA 1996). The proof necessary to carry this burden must consist of competent, substantial evidence. *See Tallahassee Housing Authority v. Unemployment Appeals Commission*, 483 So. 2d 413 (Fla. 1986); *De Groot v. Sheffield*, 95 So. 2d 912 (Fla. 1957).

Section 443.036(30), Florida Statutes, states that misconduct connected with work, "irrespective of whether the misconduct occurs at the workplace or during working hours, includes, but is not limited to, the following, which may not be construed in pari materia with each other":

> (a) Conduct demonstrating a conscious disregard of an employer's interests and found to be a deliberate violation or disregard of the reasonable standards of behavior which the employer expects of his or her employee.
>
> (b) Carelessness or negligence to a degree or recurrence that manifests culpability or wrongful intent, or shows an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to his or her employer.

(c) Chronic absenteeism or tardiness in deliberate violation of a known policy of the employer or one or more unapproved absences following a written reprimand or warning relating to more than one unapproved absence.

(d) A willful and deliberate violation of a standard or regulation of this state by an employee of an employer licensed or certified by this state, which violation would cause the employer to be sanctioned or have its license or certification suspended by this state.

(e) A violation of an employer's rule, unless the claimant can demonstrate that:

1. He or she did not know, and could not reasonably know, of the rule's requirements;
2. The rule is not lawful or not reasonably related to the job environment and performance; or
3. The rule is not fairly or consistently enforced.

On appeal, the employer contends that the claimant was discharged for having ongoing consensual and inappropriate texting and sexual relationships with a peer employee and supervisory employees while on duty and/or county property in purported violation of the following county policies:

County Employee Handbook

a. Introduction

i. Employees of [the] County, as providers of public service and in order to inspire confidence and trust are expected to commit to the highest standards of personal integrity, honesty and competence.

ii. The County's employees, as representatives of responsible government must act at all times to merit the public confidence.

b. 10.15 Disciplinary Policies and Procedures

i. An employee may be disciplined up to termination for acts of misconduct such as:

13. Engaging in disorderly or immoral conduct (including, but not limited to, violent, threatening, and/or offensive behavior, or use of abusive, offensive or profane language) while on duty or while on County property.

16. Vending or soliciting, or conducting personal business during working time or in any work areas of the County.

19. Deliberately or carelessly misusing, destroying, damaging or losing any County property or property of any employee, including use of County property for non-work related personal benefit or gain.

27. Performing any act which would place the County in a position of public disrepute.

The employer's only witness, the Employee Relations Manager, lacked firsthand knowledge of the grounds for the claimant's discharge. As a result, the referee concluded that the employer failed to offer competent witness testimony "that the claimant violated any policy or work rule" or as to the "reason for the claimant's discharge." The employer contends on appeal to the Commission that these conclusions were erroneous. To the extent the referee concluded the employer offered *no* competent evidence as to these issues, the referee's conclusions were clearly erroneous. The referee accepted into evidence a two-page document titled "Additional Information," which stated the claimant was being terminated for violation of certain County rules by virtue of her consensual sexual activity and related texting with coworkers and supervisors. The document was signed by the claimant and relevant officials of the employer.[1] Additionally, the employer provided a report of investigation by its equal opportunity officer, summarizing her findings with regard to the investigation she conducted into an allegation of sexual misconduct by the claimant and others. Of particular significance, the report's findings were based

[1] The documentary evidence, properly admitted by the referee in Exhibit 1, pages 12-13, was not hearsay in *toto*, and to the extent it contained hearsay, it was admissible under several hearsay exceptions including the business record and public record exceptions of the Florida Evidence Code, Sections 90.803(6)&(8), Florida Statutes, and the "residual" exception of Section 443.151(4)(b)5.c.(I)-(II), Florida Statutes.

heavily on the claimant's admissions during the interviews with the equal opportunity officer, which the claimant did not dispute during the appeals hearing. This report was also admissible under multiple hearsay exceptions. Although the employer did not specifically request the report to be admitted into evidence, the Commission has held on numerous occasions that it is the responsibility of the referee in proceedings with pro se parties to ensure that the record is fully developed. The employer's representative's testimony and closing comments made clear that the report was the substantive evidence the employer relied on in making the decision to discharge the claimant. Thus, contrary to the referee's conclusions, the employer placed sufficient competent and substantial evidence in the record to support its position that the claimant was discharged for violation of the employer policies as outlined in the termination document.

The employer's witness at the appeals hearing testified the claimant was discharged because she violated Policy 10.15(13) by engaging in disorderly or immoral conduct. When asked who made the judgment that the policy was violated, he answered that the Fire Chief made that judgment. When asked if any other subsection of the policy was violated, the witness answered, "no." Accordingly, while the employer's documentary evidence identified other rules the claimant allegedly violated, the Commission will limit its review to this rule. Because the claimant was discharged for allegedly violating an employer rule, we first examine whether the employer established that the claimant should be disqualified under subparagraph (e) of the definition of misconduct.

Subparagraph (e) "expresses the legislative intent that a claimant may be disqualified from benefits where it is established he or she committed a 'violation of an employer's rule.'" *Crespo v. Florida Reemployment Assistance Appeals Commission*, 128 So. 3d 49 (Fla. 3rd DCA 2012). Once the employer has shown a violation, the claimant bears the burden to establish one of the three defenses. *Crespo*, *supra*; *Critical Intervention Servs. v. Reemployment Assistance Appeals Commission*, 106 So. 3d 63, 66 (Fla. 1st DCA 2013).

In this case, the employer's rule at issue was somewhat vague. It prohibited "engaging in disorderly or immoral conduct (including, but not limited to, violent, threatening and/or offensive behavior . . .) while on duty or while on County property." The employer is entitled to interpret its rules and policies, and so long as the employer's interpretation of the rule is reasonable, and the employer establishes that the claimant violated the rule as reasonably interpreted, the employer has established a *prima facie* violation under subparagraph (e). The employer has met that requirement here. The Commission, therefore, rejects that portion of the referee's rationale seemingly holding the employer did not establish that the

claimant's conduct could fall within the prohibitions set forth in the employer's policies. Because the referee erroneously concluded that the county had not established a *prima facie* case under subparagraph (e), the Commission will review the factual findings and the record evidence to determine whether any of the defenses would be applicable.

Since the employer established a *prima facie* case, the burden of proof shifted to the claimant to show the existence of one of the defenses enumerated in subparagraph (e). The first defense requires that the claimant demonstrate that "he or she did not know, and could not reasonably know, of the rule's requirements." While this defense is often applied to a situation where a claimant has not been given adequate notice of the *existence* of a rule that governs her conduct, we conclude it applies with equal force to a situation where, due to vague or ambiguous terms, an employee did not know, nor could she reasonably be expected to know, that a known rule would *apply to specific conduct*. Thus, the fact that an employer may reasonably interpret its rule in a particular manner does not resolve the issue of whether a claimant could reasonably be expected to know that the rule prohibited certain conduct. In such cases, the Commission reviews the rule, in the context of any other guidance given or prior discipline administered by the employer of which the claimant should be aware, to determine whether the employee could reasonably be expected to understand that the behavior at issue would be a violation of the rule. In this case, we find instructive the decision in *Jones v. City of Hialeah*, 294 So. 2d 686, 688 (Fla. 3d DCA 1974). In *Jones*, the city's Personnel Board upheld the dismissal of two police officers who allegedly violated city rules by engaging in consensual sexual activity with a third person while on duty. Although the exact text of the rules was not quoted in the court's decision, the court's characterization of the rules as "essentially prohibiting 'conduct unbecoming a police officer'" guides our interpretation. *Id.* Accordingly, the Commission concludes that the claimant cannot demonstrate that she could not reasonably have known that her conduct in this instance would be a violation of the employer's rule. *See Critical Intervention Servs.*, *supra.*

The second defense requires the claimant to demonstrate that the rule "is not lawful or not reasonably related to the job environment and performance." In this case, the rule was applied to consensual sexual behavior and related texting between county employees, at least some of which occurred on County property and during working hours. Such a rule is clearly "reasonably related to the job environment and performance." Further, the Commission concludes that the rule is legal. Although the claimant and her coworkers were public employees and therefore enjoyed certain limited protections under the First Amendment, including the right to freedom of association, we are aware of no court that has held such conduct to be protected under the First Amendment while individuals were on duty. To the contrary, courts

have rejected such an argument in somewhat similar circumstances. *Caruso v. City of Cocoa, Florida*, 260 F. Supp. 2d 1191, 1205-09 (M.D. Fla. 2003). It is highly unlikely that the balancing test of *Pickering v. Board of Education*, 391 U.S. 563 (1968) would weigh in favor of employees who engaged in such behavior while on duty. Thus, the second defense does not avail the claimant here.

Finally, the claimant may show that the rule is not "fairly or consistently enforced" in her case. There is no evidence that the rule was not consistently enforced. Because "fair enforcement" is not defined within the statute, the Commission has interpreted the defense in several contexts. Based on the arguments raised by the claimant, the Commission concludes it is applicable here.

The claimant's unrebutted testimony, accepted by the referee in his findings, was that she received multiple assurances from her direct supervisor, the Rescue Chief, and his supervisor, the Operations Chief, that if she cooperated with the employer's investigation she would be disciplined, but not discharged. The claimant fully cooperated with the equal opportunity officer who was investigating whether sexual harassment occurred. The claimant relied on those assurances to her detriment, but was discharged anyway. In his conclusions, the referee noted that, while the employer assured the claimant that she would not be discharged if she cooperated with its investigation, "its position miraculously reversed once the situation was revealed by media."

In *Sullivan v. Florida Unemployment Appeals Commission*, 93 So. 3d 1047, 1050 (Fla. 1st DCA 2012), and *Rodriguez v. Florida Unemployment Appeals Commission*, 851 So. 2d 247, 249 (Fla. 3d DCA 2003), the courts concluded that employers' representations to employees that resulted in predictable reliance gave the employees good cause to quit attributable to the employer. In both of those cases, the employers made assurances to the claimants that, if they accepted severance or settlement agreements, they would be eligible for, or the employer would not oppose, unemployment benefits. The claimants, in reliance in part on those assurances, entered into the agreements. The courts held in those instances that, because of the representations, the employees could not be disqualified.[2]

[2] The claimant here also gave unrebutted testimony that, *after she was discharged*, the employer encouraged her to seek unemployment and stated that it would not appear at her appeal hearing. Since the statements were made after her discharge and did not bring about any reliance, *Sullivan* and *Rodriguez* are not applicable as to these statements.

The Commission recognizes that the claimant's reliance on the employer's promise was less detrimental here than in *Sullivan* and *Rodriguez*. In those cases, the employees were under no obligation to resign, but did so at least partially as a result of the employers' representations. It could be argued that the claimant here had less leeway to not cooperate with the investigation, and thus her reliance was more limited. Nonetheless, the Commission agrees in this case with the pronouncement of the Third District in *Rodriguez* that "employers are to be held accountable for their actions and representations to employees." 851 So. 2d at 249. The Commission concludes that, with respect to the reemployment assistance law, the employer's decision to renege on its promise it made to the claimant during the investigation establishes that its rule was not fairly enforced in this situation. The Commission thus concludes that misconduct has not been established under subparagraph (e).

The Commission also considers whether the employer proved misconduct under subparagraph (a), which requires the employer to prove that the claimant's actions were in "conscious disregard of an employer's interests *and* found to be a deliberate violation or disregard of the reasonable standards of behavior which the employer expects of his or her employee (emphasis added)." This is a compound requirement, and while the record evidence in this case was sufficient to show that the claimant's conduct was in deliberate disregard of the reasonable standards of behavior established by the employer's rule, the employer must also prove that the claimant acted in conscious disregard of its interests.

In his decision, the referee concluded "[t]he employer must have believed that misconduct warranting discharge was not established until the matter became public. The employer has therefore failed to meet its burden of proof that the claimant was discharged for misconduct." Under the unique facts of this case, the referee's rationale was not erroneous. In considering disqualification under subparagraph (a), it has been held on many occasions that conduct serious enough to support discharge will not necessarily support disqualification. *Cochran v. Unemployment Appeals Commission*, 46 So. 3d 1195, 1198 (Fla. 1st DCA 2010); *Borland v. Unemployment Appeals Commission*, 910 So. 2d 320 (Fla. 2d DCA 2005); *Cooks v. Unemployment Appeals Commission*, 670 So. 2d 178, 180 (Fla. 4th DCA 1996). While the employer may have concluded as a matter of public accountability that it needed to discharge the claimant, it must still establish that it did so under disqualifying circumstances.

An employer can establish conscious disregard of its interests in several ways. For the reasons already discussed, we conclude that it did not do so on the basis of a violation of its rule. An employer could also establish conscious disregard by proving that an employee engaged in "theft of time" which could include improperly engaging in personal business while on paid time, or by consciously disregarding her duties. The employer did not contend, nor did it show under the unique facts of this case, that the claimant effectively committed "theft of time" by engaging in such conduct on duty time, or that the claimant's conduct compromised her job performance.

The facts demonstrate the claimant worked in the employer's Fire/Rescue Division. At the hearing, the employer did not put on any evidence as to the nature of the claimant's job, whether she was paid hourly or was salaried, whether she worked duty shifts in a Fire/Rescue Station, and if so, what the shifts were and whether she was allowed any personal time during the shifts. In the complete absence of such evidence, the Commission cannot simply assume that by engaging in sexual activities with coworkers on work time, she engaged in "theft of time." For example, many fire rescue departments have traditionally utilized rotating 24-hour duty shifts for stations, and during these shifts the personnel have some amount of personal "down-time," subject to the need to respond immediately in the event of an emergency call. In the absence of any evidence from the employer, we cannot exclude that possibility. Likewise, in such circumstances her conduct in violation of the rule would not necessarily have compromised her ability to perform her job.

Moreover, even if there were sufficient evidence of "theft of time" or dereliction of duty, the Commission can only consider whether misconduct has been established for the reasons that motivated the employer to discharge the employee. The Commission cannot hold an employee disqualified for misconduct for an entirely different reason than that offered by the employer. *Berry v. Scotty's, Inc.*, 711 So. 2d 575, 577 (Fla. 2d DCA 1998). The Commission is also not permitted to reweigh the evidence by making dispositive factual findings that could have been drawn from the record when the referee did not do so. *Cesar v. Reemployment Assistance Appeals Commission*, 121 So. 3d 1181, 1184-85 (Fla. 1st DCA 2013). The absence of findings of theft of time or dereliction of duty, much less the complete absence of evidence of such conduct, and that such conduct was one of the reasons the claimant was terminated, precludes any determination by the Commission that the claimant can be disqualified under that theory. Accordingly, the employer has not established misconduct under subparagraph (a).

In summary, the Commission concludes that, while the referee erred in failing to accept the employer's probative evidence of its reason for discharging the claimant, the referee properly held that misconduct was not established.

The referee's decision is affirmed.

It is so ordered.

REEMPLOYMENT ASSISTANCE APPEALS COMMISSION

Frank E. Brown, Chairman
Thomas D. Epsky, Member
Joseph D. Finnegan, Member

This is to certify that on 2/12/2014, the above Order was filed in the office of the Clerk of the Reemployment Assistance Appeals Commission, and a copy mailed to the last known address of each interested party.

By: Kady Thomas
Deputy Clerk

DEPARTMENT OF ECONOMIC OPPORTUNITY
Reemployment Assistance Appeals
POST OFFICE BOX 8697
FORT LAUDERDALE FL 33310

IMPORTANT:	For free translation assistance, you may call 1-800-204-2418. Please do not delay, as there is a limited time to appeal.
IMPORTANTE:	Para recibir ayuda gratuita con traducciones, puede llamar al 1-800-204-2418. Por favor hágalo lo antes posible, ya que el tiempo para apelar es limitado.
ENPÒTAN:	Pou yon intèpret asisté ou gratis, nou gendwa rélé 1-800-204-2418. Sil vou plè pa pràn àmpil tàn, paské tàn limité pou ou ranpli apèl la.

Docket No. **2013-43477U** Jurisdiction: §443.151(4)(a)&(b) Florida Statutes

CLAIMANT/Appellant **EMPLOYER/Appellee**

APPEARANCES: CLAIMANT & EMPLOYER LOCAL OFFICE #: 3673-0

DECISION OF APPEALS REFEREE

Important appeal rights are explained at the end of this decision.
Derechos de apelación importantes son explicados al final de esta decisión.
Yo eksplike kèk dwa dapèl enpòtan lan fen desizyon sa a.

Issues Involved:

SEPARATION: Whether the claimant was discharged for misconduct connected with work or voluntarily left work without good cause as defined in the statute, pursuant to Sections 443.101(1), (9), (10), (11); 443.036(30), Florida Statutes; Rule 73B-11.020, Florida Administrative Code.

NONAPPEARANCE: Whether there is good cause for proceeding with an additional hearing pursuant to Rules 73B-20.016; 20.017, Florida Administrative Code.

Findings of Fact: A determination unfavorable to the employer was mailed on March 27, 2013. The employer appealed this determination, and a hearing was scheduled to be held on April 30, 2013. The employer planned to attend the hearing, but failed to attend the hearing because it inadvertently failed to provide contact information to the Department. A Decision of Appeals Referee was entered on April 30, 2013 in Docket

Number 2013-28581U. The employer filed a written request to re-open the appeal on May 13, 2013.

The claimant worked as a medical supervisor from June, 1998 until February 14, 2013 for the employer, the fire rescue division of a county government. The claimant was accused of engaging in inappropriate texting and sexual activity on county property while on duty. The claimant received assurances that if she cooperated with the investigation into the matter that she would be disciplined but not discharged. The claimant cooperated with the investigation. The claimant's sexual conduct with co-workers was reported in both print and broadcast media on February 13, 2013. The employer discharged the claimant for sexual activity with co-workers the very next day.

Conclusions of Law: A case will be re-opened for a hearing on the merits when a party requests a reopening within 20 days of rendition of the decision and establishes good cause for not attending a previous hearing. If good cause is not established, the previous decision will be reinstated.

The record and evidence in this case show that the employer had good cause for failing to appear at the hearing of April 30, 2013, because the employer planned to attend the hearing, but failed to attend the hearing because it inadvertently failed to provide contact information to the Department. The employer diligently requested re-opening of the appeal. Accordingly, the referee will re-open the case for a hearing on the merits.

As of June 27, 2011, the Reemployment Assistance Law of Florida defines misconduct connected with work as, but is not limited to, the following, which may not be construed in pari materia with each other:

(a) Conduct demonstrating conscious disregard of an employer's interests and found to be a deliberate violation or disregard of the reasonable standards of behavior which the employer expects of his or her employee.

(b) Carelessness or negligence to a degree or recurrence that manifests culpability, or wrongful intent, or shows an intentional and substantial disregard of the employer's interest or of the employee's duties and obligations to his or her employer.

(c) Chronic absenteeism or tardiness in deliberate violation of a known policy of the employer or one or more unapproved absences following a written reprimand or warning relating to more than one unapproved absence.

(d) A willful and deliberate violation of a standard or regulation of this state by an employee of an employer licensed or certified by this state, which violation would cause the employer to be sanctioned or have its license or certification suspended by this state.

(e) A violation of an employer's rule, unless the claimant can demonstrate that:

1. He or she did not know, and could not reasonably know, of the rules requirements;
2. The rule is not lawful or not reasonably related to the job environment and performance; or
3. The rule is not fairly or consistently enforced.

In cases of discharge, the burden is on the employer to establish that the discharge was for misconduct connected with work. Lewis v. Unemployment Appeals Commission, 498 So.2d 608 (Fla. 5th DCA 1986). The proof must be by a preponderance of competent substantial evidence. De Groot v. Sheffield, 95 So.2d 912 (Fla. 1957); Tallahassee Housing Authority v. Unemployment Appeals Commission, 483 So.2d 413 (Fla. 1986). The employer has failed to meet this burden here.

The record and evidence reveal that the employer discharged the claimant because the employer believed that the claimant engaged in inappropriate texting and sexual activity on county property while on duty. While the

claimant admitted to having sexual relations with co-workers, the employer failed to produce any witness with first-hand knowledge that the claimant violated any policy or work rule, or that her actions otherwise fell within any of the definitions of misconduct above. The employer's witness offered only hearsay testimony concerning the reason for the claimant's discharge.

Hearsay evidence may be used for the purpose of supplementing or explaining other evidence, but is not sufficient in itself to support a finding of fact unless it would be admissible over objection in civil actions. See Section 120.57, Florida Statutes. Notwithstanding Section 120.57(1)(c), Florida Statutes, hearsay evidence may support a finding of fact if the party against whom it is offered has a reasonable opportunity to review such evidence prior to the hearing and the appeals referee or special deputy determines, after considering all relevant facts and circumstances, that the evidence is trustworthy and probative and that the interests of justice are best served by its admission into evidence. This latter exception does not apply in this case.

In cases of discharge, the burden is on the employer to establish that the discharge was for misconduct connected with work. The employer's witness' testimony cannot support a finding of fact regarding the reason for the claimant's discharge. Additionally, the employer assured the claimant that she would not be discharged if she cooperated with its investigation, but its position miraculously reversed once the situation was revealed by media. The employer must have believed that misconduct warranting discharge was not established until the matter became public. The employer has therefore failed to meet its burden of proof that the claimant was discharged for misconduct. Accordingly, it is held that the claimant was discharged for reasons other than misconduct connected with the work.

Decision: The employer has shown good cause to re-open this appeal. The determination dated March 27, 2013, holding that the claimant was

discharged for misconduct connected with the work, is **REVERSED**. The claimant is not disqualified.

If this decision disqualifies and/or holds the claimant ineligible for benefits already received, the claimant will be required to repay those benefits. The specific amount of any overpayment will be calculated by the department and set forth in a separate overpayment determination, unless specified in this decision. However, the time to request review of this decision is as shown above and is not stopped, delayed or extended by any other determination, decision or order.

This is to certify that a copy of the above decision was mailed to the last known address of each interested party on June 26, 2013.

RAPHAEL UMANSKY
Appeals Referee

By: Miranda B. Phillips
MIRANDA B. PHILLIPS, Deputy Clerk

IMPORTANT - APPEAL RIGHTS: This decision will become final unless a written request for review or reopening is filed within 20 calendar days after the mailing date shown. If the 20th day is a Saturday, Sunday or holiday defined in F.A.C. 73B-21.004, filing may be made on the next day that is not a Saturday, Sunday or holiday. If this decision disqualifies and/or holds the claimant ineligible for benefits already received, the claimant will be required to repay those benefits. The specific amount of any overpayment will be calculated by the Department and set forth in a separate overpayment determination. However, the time to request review of this decision is as shown below and is not stopped, delayed or extended by any other determination, decision or order.

A party who did not attend the hearing for good cause may request reopening, including the reason for not attending, at https://iap.floridajobs.org/ or by writing to the address at the top of this decision. The date the confirmation number is generated will be the filing date of a request for reopening on the Appeals Web Site.

A party who attended the hearing and received an adverse decision may file a request for review to the Reemployment Assistance Appeals Commission, Suite 101 Rhyne Building, 2740 Centerview Drive, Tallahassee, Florida 32399-4151; (Fax: 850-488-2123); **https://raaciap.floridajobs.org/.** If mailed, the postmark date will be the filing date. If faxed, hand-delivered, delivered by courier service other than the United States Postal Service, or submitted via the Internet, the date of receipt will be the filing date. To avoid delay, include the docket number and claimant's social security number. A party requesting review should specify any and all allegations of error with respect to the referee's decision, and provide factual and/or legal support for these challenges. Allegations of error not specifically set forth in the request for review may be considered waived.

IMPORTANTE - DERECHOS DE APELACIÓN: Esta decisión pasará a ser final a menos que una solicitud por escrito para revisión o reapertura se registre dentro de 20 días de calendario después de la fecha marcada en que la decisión fue remitida por correo. Si el vigésimo (20) día es un sábado, un domingo o un feriado definidos en F.A.C. 73B-21.004, el registro de la solicitud se puede realizar en el día siguiente que no sea un sábado, un

domingo o un feriado. Si esta decisión descalifica y/o declara al reclamante como inelegible para recibir beneficios que ya fueron recibidos por el reclamante, se le requerirá al reclamante rembolsar esos beneficios. La cantidad específica de cualquier sobrepago [*pago excesivo de beneficios*] será calculada por la Agencia y establecida en una determinación de pago excesivo de beneficios que será emitida por separado. Sin embargo, el límite de tiempo para solicitar la revisión de esta decisión es como se establece anteriormente y dicho límite no es detenido, demorado o extendido por ninguna otra determinación, decisión u orden.

Una parte que no asistió a la audiencia por una buena causa puede solicitar una reapertura, incluyendo la razón por no haber comparecido en la audiencia, en https://iap.floridajobs.org/ o escribiendo a la dirección en la parte superior de esta decisión. La fecha en que se genera el número de confirmación será la fecha de registro de una solicitud de reapertura realizada en el Sitio Web de la Oficina de Apelaciones.

Una parte que asistió a la audiencia y recibió una decisión adversa puede registrar una solicitud de revisión con la Comisión de Apelaciones de Desempleo; Reemployment Assistance Appeals Commission, Suite 101 Rhyne Building, 2740 Centerview Drive, Tallahassee, Florida 32399-4151; (Fax: 850-488-2123); **https://raaciap.floridajobs.org/.** Si la solicitud es enviada por correo, la fecha del sello de la oficina de correos será la fecha de registro de la solicitud. Si es enviada por telefax, entregada a mano, entregada por servicio de mensajería, con la excepción del Servicio Postal de Estados Unidos, o realizada vía el Internet, la fecha en la que se recibe la solicitud será la fecha de registro. Para evitar demora, incluya el número de expediente [*docket number*] y el número de seguro social del reclamante. Una parte que solicita una revisión debe especificar cualquiera y todos los alegatos de error con respecto a la decisión del árbitro, y proporcionar fundamentos reales y/o legales para substanciar éstos desafíos. Los alegatos de error que no se establezcan con especificidad en la solicitud de revisión pueden considerarse como renunciados.

ENPÒTAN – DWA DAPÈL: Desizyon sa a ap definitif sòf si ou depoze yon apèl nan yon delè 20 jou apre dat nou poste sa a ba ou. Si 20^{yèm} jou a se yon samdi, yon dimanch oswa yon jou konje, jan sa defini lan F.A.C. 73B-21.004, depo an kapab fèt jou aprè a, si se pa yon samdi, yon dimanch oswa yon jou konje. Si desizyon an diskalifye epi/oswa deklare moun k ap fè demann lan pa kalifye pou alokasyon li resevwa deja, moun k ap fè demann lan ap gen pou li remèt lajan li te resevwa a. Se Ajans lan k ap kalkile montan nenpòt ki peman anplis epi y ap detèmine sa lan yon desizyon separe. Sepandan, delè pou mande revizyon desizyon sa a se delè yo bay anwo a; Okenn lòt detèminasyon, desizyon oswa lòd pa ka rete, retade oubyen pwolonje dat sa a.

Yon pati ki te gen yon rezon valab pou li pat asiste seyans lan gen dwa mande pou yo ouvri ka a ankò; fòk yo bay rezon yo pat ka vini an epi fè demann nan sou sitwèb sa a, https://iap.floridajobs.org/ oswa alekri nan adrès ki mansyone okomansman desizyon sa a. Dat yo pwodui nimewo konfimasyon an se va dat yo prezante demann nan pou reouvri kòz la sou Sitwèb Apèl la.

Yon pati ki te asiste seyans la epi ki pat satisfè desizyon yo te pran an gen dwa mande yon revizyon nan men Reemployment Assistance Appeals Commission, Suite 101 Rhyne Building, 2740 Centerview Drive, Tallahassee, Florida 32399-4151; (Fax: 850-488-2123); **https://raaciap.floridajobs.org/.** Si ou voye l pa lapòs, dat ki sou tenb la ap dat ou depoze apèl la. Si ou depoze apèl la sou yon sitwèb, ou fakse li, bay li men nan lamen, oswa voye li pa yon sèvis mesajri ki pa Sèvis Lapòs Lèzetazini (*United States Postal Service*), oswa voye li pa Entènèt, dat ki sou resi a se va dat depo a. Pou evite reta, mete nimewo rejis la (*docket number*) avèk nimewo sekirite sosyal moun k ap fè demann lan. Yon pati k ap mande revizyon dwe presize nenpòt ki alegasyon erè nan kad desizyon abit la, epi bay baz reyèl oubyen legal pou apiye alegasyon sa yo. Yo p ap pran an konsiderasyon alegasyon erè ki pa byen presize nan demann pou revizyon an.