

DECISION DIGEST

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DRUG FREE WORKPLACE

SEPTEMBER 2016

Background

A hospital patient care technician (employee) was discharged for violating the employer's Drug Free Workplace Policy.

The employee reported to work with low energy, slurred speech and bloodshot eyes. When her manager observed this behavior, she sent her for a drug and alcohol test and sent her home pending the test outcome. The employee tested positive for four drugs, one of which was methadone. The employee produced three prescriptions and was subsequently discharged because she did not have a script for methadone.

Process

The former employee (claimant) filed an unemployment claim and was held disqualified from UI benefits for severe misconduct for reporting to work under the influence of a controlled, dangerous substance. The claimant filed an appeal contending that the severe misconduct disqualification was too harsh.

The claimant, the employer's witnesses and Princeton Claims Management (PCM) appeared for the hearing. In her testimony, the claimant acknowledged that she reported to work impaired and tested positive for methadone. She contended that the methadone belonged to her roommate and was taken in error and she reported to work anyway despite the potential harmful consequences. In view of the claimant's admission, PCM maintained that her recklessness placed herself and patients in danger and did indeed constitute severe misconduct as defined under N.J.S.A. 43:21-5(b).

Judgment

The examiner opined that the claimant's discharge did not rise to severe misconduct because she had not been previously warned for a similar infraction. The employer strongly disagreed and PCM appealed to the Board of Review, arguing that "reporting to work under the influence of an illegal drug, which significantly impairs judgment, does indeed rise to the level of severe misconduct, particularly in a healthcare environment where one's actions place already vulnerable patients at risk of serious harm."

The employer emphasized that one violation of the use of illegal drugs in a healthcare environment, is one too many - despite no previous warnings. The Board agreed with the employer stating in its Decision, "since the impairment resulting from ingesting the drug potentially jeopardized the safety and well-being of the patients under her care, and therefore the employer's interests, the claimant's actions are considered to be "wanton and malicious" and rise to severe misconduct.

The significance of this case establishes that severe misconduct can be imposed without prior warnings when the claimant's actions potentially jeopardize patient care and safety due to "wanton and malicious" behavior.

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