

DECISION DIGEST

Actual cases and rulings from Princeton Claims Management

NJHA
HEALTHCARE
BUSINESS SOLUTIONS

NOVEMBER 2017

Failure to Renew EAD Card (Work Permit) Results in Voluntary Leaving Disqualification

Background

A patient escort was separated from the hospital because she failed to renew her employment authorization document card (EAD card). The employee had a valid EAD card upon hire and was advised it was a requirement for continuing employment. The employer gave the employee advance notice that her card was expiring and that she would need to renew it to remain employed. Despite the employer's reminder, the employee claimed she forgot to renew her EAD card and was therefore separated from employment. The employee (claimant) filed a claim for unemployment benefits and was disqualified for voluntary leaving without good cause. She filed an appeal arguing that she was discharged and did not voluntarily resign.

Process

The appellant claimant, a hospital witness and its agent, Princeton Claims Management, participated in a hearing, which focused on the claimant's separation from work. The claimant contended that it was not her choice to leave work and therefore she should not be disqualified for voluntarily leaving. The employer agreed that although the employee did not quit, she was discharged because her EAD card was no longer valid. While the employer was sympathetic to the claimant's situation, it could not legally employ her. Both parties agreed that the claimant was a good worker and could have continued working if she had a valid EAD card.

Judgment

In the hearing examiner's written decision, she held that, "where it is reasonably foreseeable that an employee's voluntary conduct will render him unemployable, and his actions actually do lead to the loss of a prerequisite of employment, the employee leaves work voluntarily without good cause attributable to such work under N.J.S.A. 43:21-5(a). Since the claimant had control over the card renewal and failed to do it, her discharge was deemed a voluntary leaving.

This case demonstrates that a discharge can constitute a voluntary leaving under the NJ UI Law when the voluntary conduct of an employee results in the loss of a requirement of the job - including an employment authorization card, professional license/certification or a driver's license.

For more information about Princeton Claims Management, contact *LuAnne Rooney Frascella* at 609.936.2207 or lfrascella@njha.com.