

DECISION DIGEST

Actual cases and rulings from Princeton Claims Management

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Discharge Due to Incarceration Is a Quit Under NJ UI Law

Background

A hospital receptionist (employee) was discharged because she failed to report to work for nine consecutive work days. The employee notified the employer that she was unable to report to work for only one day and did not provide a reason nor a date when she would return.

On that morning on her way to work, the employee was stopped for a traffic violation and was unexpectedly incarcerated due to an outstanding warrant. The employee called the employer to report her absence for the day claiming a personal matter and did not provide any additional details. At that time, the employee did not know how long she would be incarcerated and was embarrassed to tell the employer the truth. The employee was incarcerated for 12 days. When the employee was released from jail, she contacted the employer to inquire about the status of her job and was advised she was terminated for her failure to call or report for nine consecutive work days.

Process

The former employee (claimant) filed an unemployment claim and was held disqualified for voluntarily leaving work without good cause attributable to the work. She disagreed with the determination and filed an appeal contending she did not quit but was terminated for unauthorized absences from work.

The claimant, the employer's witnesses and agent, Princeton Claims Management appeared for the hearing. The claimant acknowledged she could not report to work for two weeks due to incarceration and only reported her absence for one day. She testified her incarceration was a misunderstanding involving a court fine and that her case was ultimately dismissed. She further testified that since she was wrongly incarcerated, she should not have been disqualified for quitting because the situation was not her fault. The examiner gave the claimant the benefit of the doubt and postponed the hearing for one week to allow her an opportunity to provide proof of the mistake. After more than a week, the claimant failed to provide documentation to substantiate the mistake and her contention was rejected. The employer testified that it was unaware of the claimant's situation and separated her for unauthorized absences in accordance with its policy.

Judgment

Although the Appeal Tribunal examiner sympathized with the claimant's circumstances, he could not disregard the incarceration and subsequent severing of the employer-employee relationship. Since it was the claimant's voluntary conduct which caused the separation and she could not provide proof that her incarceration was a mistake, she was held disqualified under N.J.S.A. 43:21-5(a) for voluntarily leaving without good cause attributable to the work.

In this case, it was the claimant who initiated the separation when she committed actions that resulted in her incarceration and extended unauthorized absences from work. Although she was terminated by the employer, it is viewed by the NJ UI Law as a voluntary leaving of work for personal reasons, which is disqualifying.

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