

DECISION DIGEST

Actual cases and rulings from Princeton Claims Management

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Off Duty Behavior Meets “Connected with the Work” Misconduct Requirement

Background

A dialysis technician was placed on a 30 day administrative leave of absence after he was arrested for possession of child pornography. The arrest was reported in the local newspaper, which identified him as a hospital employee. The claimant denied the allegations and requested time off to resolve his legal issues. In accordance with the employer’s policy, a personal leave was granted for 30 days pending the outcome of the legal proceedings. Upon expiration of the leave, the matter was not resolved and the claimant was terminated for violating the employer’s policy involving standards of social responsibility and trustworthiness. A week later, the claimant was convicted of child endangerment, a third-degree felony crime under New Jersey’s Code of Criminal Justice.

Process

The former employee (claimant) filed an unemployment claim and was held disqualified for misconduct due to his violation of the employer’s policy. Although the claimant agreed he was convicted of a third-degree crime, he appealed his disqualification contending his actions did not occur at work and therefore did not meet the “connected with the work” requirement to impose the misconduct disqualification under N.J.S.A. 43:21-5(b).

The claimant and employer’s witness with Princeton Claims Management (PCM) appeared for the hearing. PCM provided evidence of the employer’s written policies regarding standards of behavior as well as newspaper accounts of the claimant’s arrest and conviction. The claimant argued that since his crime occurred off duty, the behavior for which he was discharged was not related to work and did not constitute misconduct as defined under N.J.S.A. 43:21-5(b). The employer disagreed and argued that the claimant’s egregious off-duty behavior reflected poorly on its public image, integrity and trust. His behavior was in fact connected with the work and constituted gross misconduct for the commission of a third-degree crime. Regulation N.J.S.A 12:17-10.(c), stipulates; “connected with the work means not only misconduct that occurs in the course of employment during working hours, but includes any conduct which occurs after working hours or off the employer’s premises where there is substantial evidence that the conduct adversely impacts the employer or the individual’s ability to perform the duties of his or her job.”

Judgment

The Appeal Tribunal examiner agreed with the employer and opined “that the success of an employer is dependent on the character and integrity of the individuals connected with it.” Therefore, since the claimant’s off-duty illegal behavior adversely affected the employer’s reputation and trust, it is “connected with the work” and disqualifying for gross misconduct under N.J.S.A. 43:21-5(b).

This case demonstrates that the “connected with the work” requirement embraces employee behavior both on and off the employer’s premises.

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