

# DECISION DIGEST

*Actual cases and rulings from Princeton Claims Management*

AUGUST 2021

## INAPPROPRIATE BEHAVIOR DETERMINED REASONABLE AND NOT MISCONDUCT

### Background

A Director of Facilities was terminated because the employer was dissatisfied with his leadership. The Director (employee) was expected to be on-call for occasional emergencies on his days off. The employee accepted this responsibility and understood the importance of being available on those days. On one such day off, the Director received a call from the Administrator asking him to report for work due to an emergency. The director had just lost a close friend to cancer and was feeling down, so he told his subordinates to handle the situation until he “could get himself together.” Approximately two (2) hours later, the Director arrived at work to find his staff had not handled the matter and he blew up and called them “a bunch of idiots.” The Administrator overheard his demeaning comments and discharged him for responding late to a call, inappropriate behavior, and poor leadership.

### Process

The employee (claimant) filed an unemployment claim and was held disqualified due to his unprofessional and inappropriate behavior in the workplace in accordance with N.J.S.A. 43:21-5(b). Although the claimant acknowledged that he could have handled the situation better and was sorry for his comments, he disagreed with the misconduct disqualification and filed an appeal to the Appeal Tribunal.

The claimant, an employer witness and the employer’s agent (Princeton Claims Management) participated in a hearing before an Appeal Tribunal examiner. The claimant agreed that he had been on-call and did not report to work for approximately two (2) hours. He testified that he could not report immediately because a good friend had just died, and he was very upset. He admitted that he did not report these circumstances to his employer at the time of the call. He further testified that, due to his emotional state, he used poor judgement when he called his subordinates “idiots,” but did not intend to humiliate them. The employer witness testified that she needed the claimant to report for work immediately and was never advised that he could not. She also testified that when she heard his inappropriate remarks to his staff, she was horrified by his behavior and did not feel he was up to the task of a Director. She acknowledged that he had received no prior warnings but decided to discharge him because she no longer trusted his leadership abilities.

### Judgment

In the Appeal Tribunal’s decision, the examiner opined, that “although the claimant did not immediately report to work, he has shown good cause for not doing so.” Additionally, while the use of the word “idiots” was inappropriate, it was not unreasonable given his emotional state and did not rise to the level of misconduct, especially since it was an isolated incident and he had never been warned about inappropriate behavior. Therefore, the examiner reversed the misconduct determination and held the claimant eligible for benefits without disqualification. The employer disagrees with herein Decision and is considering an appeal to the Board of Review – *please stay tuned!*

*In this case, after weighing all the facts, the examiner held that the claimant had good cause for reporting late and that his comments, while inappropriate, were not unreasonable under the circumstances and therefore, his discharge did not rise to misconduct under N.J.S.A. 43-21-(b).*

For more information about Princeton Claims Management or unemployment insurance eligibility amid COVID-19 please contact *LuAnne Rooney Frascella* at 609.936.2207 or [lfrascella@njha.com](mailto:lfrascella@njha.com).