

DECISION DIGEST

Actual cases and rulings from Princeton Claims Management

OCTOBER 2021

EMPLOYEE VIOLATES POLICY, REFUSES REINSTATEMENT AND IS DISQUALIFIED FOR MISCONDUCT AND VOLUNTARY LEAVING

Background

A Patient Sitter (employee) was suspended without pay because she failed to follow the hospital's patient safety protocol while observing a patient. The employee was required to sit within arm's distance of a patient and be free of distractions. During the sitter's shift, the patient became agitated, jumped on the bed, tore down the light fixture and eloped from the hospital. The sitter denied being preoccupied, but when the employer reviewed the surveillance video, they saw the employee on her cell phone with her shoes off. The employee was suspended pending an investigation and later discharged for failing to follow the employer's safety protocol when observing a patient. The claimant filed an internal appeal arguing that the charge nurse could have done more to deescalate the situation. After review, the employer agreed that the patient sitter was not the only one to blame and should be given another chance and offered her job back. The employee refused the offer because her demands for more money, a different shift and an apology for mistreatment were not met.

Process

The employee (claimant) filed an unemployment claim and was held disqualified on the grounds that her suspension rose to misconduct and her refusal to return to work was a quit without good cause. The claimant filed an appeal contending that she was not solely to blame for the patient's elopement and was treated unfairly during the employer's investigation, which established good cause for leaving the job.

The claimant, an employer witness and the employer's agent (Princeton Claims Management) participated in a hearing before an Appeal Tribunal examiner. Both parties agreed that the claimant made mistakes while observing the patient, but she was not the only one. The employer agreed to give the claimant another chance and offered to reinstate her to her same job. The claimant declined the reinstatement and decided to quit. The claimant felt she was mistreated and singled out by management, so she asked for a different shift with more money and an apology. The employer acknowledged that they may have erred in their handling of the investigation, but it did not change the fact that the claimant violated policy. Unfortunately, another shift was not available and more money would be considered during her review. Furthermore, while the employer regretted the situation, it did not apologize for following its policy to protect patient safety.

Judgment

In the Appeal Tribunal's Decision, the examiner opined, that the claimant's violation of policy that resulted in her suspension and termination was a willful disregard of the employer's patient safety policy and disqualifying under misconduct. Additionally, although the claimant's demands were not met, there was no evidence of abnormal or grievous treatment of the claimant, and therefore her reasons for leaving did not establish "good cause attributable to the work" and she was disqualified for benefits.

This case illustrates that although the employer decided to rescind the claimant's termination, her actions still constituted misconduct and her refusal to be reinstated due to unsubstantiated mistreatment by the employer did not establish good cause for quitting.

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.