

DECISION DIGEST

Actual cases and rulings from Princeton Claims Management

JANUARY 2022

"MERELY QUESTIONING A TASK" DOES NOT RISE TO INSUBORDINATION NOR MISCONDUCT

Background

A Sterile Processing Technician (employee) was terminated following a final warning for unacceptable behavior toward his supervisor and insubordination. On the day in question, the employee was working in the decontamination room when he was relieved by another employee. Since he was still on the clock for another hour, he began assembling surgical trays for the next day. Before the end of his shift, his supervisor instructed him to go back into the decontamination room because his co-worker needed help. The employee became irritated, raised his voice, and wanted to know why he was being singled out for the assignment. Following an emotional discussion between the two, the employee agreed to comply and went into the decontamination room to help the coworker. The supervisor felt disrespected, as this was not the first time the employee challenged his authority. Since the employee had been previously warned through progressive discipline, he was terminated for unacceptable behavior and insubordination.

Process

The employee (claimant) filed an unemployment claim and was held disqualified from benefits due to misconduct for violating the employer's policy after warnings. The claimant disagreed that his actions rose to the level of misconduct and filed an appeal contending he was merely asking the employer a question and was not insubordinate.

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 previously had been warned about unacceptable behavior. The claimant contended that he was not being disrespectful – he was merely asking a question and it was within his right to complain about the assignment, as he felt singled out by his supervisor. The employer disagreed and contended he was treated the same as the other employees. The employer witness testified further that the claimant often went too far when questioning assignments and had a pattern of unacceptable behavior. Therefore, the employer argued that since the claimant had been previously warned and was aware that any further violations of policy could result in his termination, the disqualification for misconduct should be upheld. The claimant disagreed arguing he did nothing wrong by merely stating his dissatisfactions.

Judgment

In the Appeal Tribunal's Decision, the examiner opined that the "questioning of a task or even expressing an emotion of dissatisfaction" does not mean the claimant was insubordinate. In this case, although the claimant complained about the task, he did complete it. Therefore, the claimant's actions did not constitute a deliberate disregard of the employer's policy and the determination of misconduct was reversed and he was eligible for UI benefits.

This case illustrates that, while the claimant may have complained about his assignment, he did complete it, which does not rise to misconduct because, in the end, he did not disregard his supervisor's directive.

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.