

# DECISION DIGEST

*Actual cases and rulings from Princeton Claims Management*

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## A MEDICAL NOTE IS CONCLUSIVE WHEN RETURNING TO WORK

### Background

A dietary aide (employee) worked for a hospital for five years when he was discharged for insubordination and using profane language toward his supervisor. The worker had just returned from a medical leave of absence and was assigned to work in the emergency department by his supervisor. The worker became agitated and was unhappy with the assignment because he wanted a lighter workload on his first day back from leave. The supervisor disagreed, as the employee had been released to return to full duty without restrictions. The situation escalated when the employee became angry, used profanity within earshot of patients and refused to do his job. Due to the disruption in the workplace, the supervisor sent him home for the day. When the employee refused to leave the premises, security was called to escort him out. The employee was suspended pending an investigation and later terminated for violating the employer's policy due to insubordination and using foul language in the workplace.

### Process

The employee (claimant) filed an unemployment claim and was determined to be eligible without disqualification. The deputy held that the claimant's temper got the best of him, and he did not intend to disrupt the workplace. Additionally, since it was his first day back from a medical leave, it was not unreasonable for him to request a light assignment. The employee was paid full benefits from the date of claim. The employer, through its agent, Princeton Claims Management, filed an appeal to the Appeal Tribunal contending that the examiner erred in her determination because using offensive language in the workplace and refusing an assignment rises to a misconduct disqualification, which is defined as a willful disregard of the employer's interest.

The appellant employer and the claimant appeared before the Appeal Tribunal examiner to adjudicate the separation issue. The employer witness testified that the claimant came into work angry that morning and was insubordinate when he refused his work assignment in the emergency department. Since the claimant continued to refuse to do his work or leave the premises, he was escorted out by security. The claimant testified that, despite being cleared by his doctor to return to full duty without restrictions, he did not feel ready to work in the emergency room due to the workload. He admitted that he should have handled things differently, but he was still under the weather and was not himself. The employer was sympathetic to the claimant's situation, but since he had been cleared for full duty, he needed him to work in the emergency department, a place he had worked many times in the past.

### Judgment

In the Appeal Tribunal's Decision, the examiner opined that, while the claimant may have felt he was not ready to work in the emergency department, he had been medically cleared to return to work without restrictions and the assignment was not unusual, as he had worked there many times in the past. Since the claimant was aware that insubordination and using profanity towards his supervisor was reason for immediate discharge under the employer's policy, his behavior constituted a willful disregard of the employer's interests, and he was disqualified for misconduct in accordance with N.J.S.A 43:21-5(b), and the determination of the deputy was reversed.

***This case illustrates the importance of a medical note to return a worker to full duty without restrictions. Although a worker may not feel ready, the employee should discuss any concerns with the doctor and not expect special treatment upon the employee's return to work, as a doctor's note will be relied upon as conclusive by the employer when assigning work to the employee.***

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