

DECISION DIGEST

Actual cases and rulings from Princeton Claims Management

MARCH 2023

VIDEO MONITORING SUBSTANTIATES MISCONDUCT

Background

A patient transport aide (employee) was suspended pending an investigation after she could not be located during her shift. The employer confirmed that the aide had arrived to work at 8am, clocked in for the day but did not login to the employer's dispatch system which was used to distribute work and was a requirement for all transport aides. At around noon, the manager began searching the hospital for the employee and found her in an unauthorized office resting. The employee contended she did not feel well and was taking her break in the office. The employee acknowledged that she neither logged in to the dispatch system nor advised anyone that she was ill. The employer questioned the claimant's credibility and decided to view video footage of the office, which showed the employee resting for more than three (3) hours. Since the employee was not working while on the time clock and did not advise management of her whereabouts, she was discharged for taking an extended unauthorized break, which was considered theft of time and a terminable offense under the employer's policy.

Process

The employee (claimant) filed an unemployment claim and was disqualified for misconduct due to violating the employer's policy. The claimant stated she was sick and needed to rest. She further contended she only planned to rest for a short time and did not intend to steal time from the employer. Therefore, she appealed and argued she did not deliberately violate the policy and her actions did not rise to misconduct under the NJ UI Law.

The appellant claimant and the employer's witness with PCM appeared before an Appeal Tribunal examiner. The claimant admitted that she failed to notify her manager that she did not feel well and forgot to login to the dispatch system despite acknowledging that it was a requirement of her employment. She also stated she did not intend to stay in the office for more than her break time but lost track of time. The employer testified that it is a requirement for all transport aides to login to the dispatch system when they arrive to work for their assignments, and he was never notified that the claimant did not feel well. In closing, although the manager was sympathetic to the claimant's contentions, she did not follow policy and her employment was terminated. The claimant argued she had been sick and did not deliberately do anything wrong.

Judgment

In the Appeal Tribunal's Decision, the examiner opined that, while the claimant may not have been feeling well, it was within her control to contact her manager. Since the claimant took an unauthorized break and failed to notify her manager, her actions are viewed as theft of time because she had clocked in and was being paid but was not working. Since she violated the employer's policies, her discharge rises to misconduct and is disqualifying under N.J.S.A 43:21-5(b).

This case illustrates the importance of using video monitoring to verify the claimant's whereabouts. Without it, the employer would not have been able to substantiate that the claimant was in an unauthorized office for at least 3 hours, while clocked in, rising to theft of time and a misconduct disqualification under the NJ UI Law.

For more information about Princeton Claims Management or unemployment insurance eligibility please contact LuAnne Rooney Frascella at 609.936.2207 or lfrascella@njha.com.