

Sleeping On Suicide Watch: Court Says Hospital Has Grounds To Fire For Serious Misconduct.

A hospital employee filed for unemployment after she was terminated when a nurse caught her sleeping while she was assigned to sit with a patient on suicide watch.

The Court of Appeals of Minnesota ruled the hospital had grounds to terminate her for misconduct and she was not eligible for unemployment.

Prior Warning Had Been Given For Sleeping On The Job

Although it is not necessary to give an employee a warning before terminating the employee for serious misconduct, this employee had been caught sleeping on suicide watch approximately one year before this incident and had been warned in writing that another similar incident would result in disciplinary action up and to including her termination.

Employment misconduct is defined as intentional, negligent or indifferent conduct that clearly displays a serious violation of the standards of behavior the employer has the right to expect, or a substantial lack of concern.

The hospital fully investigate the facts before taking action. The nurse who caught her asleep and the patient himself verified what happened.

COURT OF APPEALS OF MINNESOTA
November 3, 2009

Employee Was Not Entitled To Reasonable Accommodation

The Court threw out the argument offered by the employee in her defense that her supervisors knew about her busy schedule, attending school, caring for her family and working the night shift, and therefore had an obligation to provide reasonable accommodation, that is, an assignment where falling asleep on duty would not be an issue with patient safety.

The hospital's internal investigator spoke with the staff nurse who caught her sleeping. The investigator also spoke with the patient, who said the aide was asleep that night and the night before. The patient's allegedly questionable mental state was not an issue the aide could raise, the court said. **Wuorinen v. St. Mary's, 2009 WL 3574238 (Minn. App., November 3, 2009).**