

business. The claimant called the courier because she was busy. The regional manager considered this disrespectful.

During the latter part of her employment, the claimant asked the regional manager if they could set up a system to file the work orders. The work orders were put in boxes and there was no organization. The regional manager agreed. Supplies were ordered for the filing system. The claimant was busy with her work and was not able to start setting up the filing system when the supplies arrived. She advised the regional manager that she was busy and asked for an extension to get the work done. The claimant completed the work by January 2013. On January 9, 2013 the claimant was terminated due to failing to pass her probationary period.

**Conclusions of Law:** As of June 27, 2011, the Reemployment Assistance Law of Florida defines misconduct connected with work as, but is not limited to, the following, which may not be construed in pari materia with each other:

- (a) Conduct demonstrating conscious disregard of an employer's interests and found to be a deliberate violation or disregard of the reasonable standards of behavior which the employer expects of his or her employee.
- (b) Carelessness or negligence to a degree or recurrence that manifests culpability, or wrongful intent, or shows an intentional and substantial disregard of the employer's interest or of the employee's duties and obligations to his or her employer.
- (c) Chronic absenteeism or tardiness in deliberate violation of a known policy of the employer or one or more unapproved absences following a written reprimand or warning relating to more than one unapproved absence.
- (d) A willful and deliberate violation of a standard or regulation of this state by an employee of an employer licensed or certified by this state, which violation would cause the employer to be sanctioned or have its license or certification suspended by this state.
- (e) A violation of an employer's rule, unless the claimant can demonstrate that:
  1. He or she did not know, and could not reasonably know, of the rules requirements;
  2. The rule is not lawful or not reasonably related to the job environment and performance;  
or
  3. The rule is not fairly or consistently enforced.

The record in this case shows that the claimant was discharged. Consideration was given to the employer's witnesses' testimony that the claimant was discharged for unsatisfactory performance and for disrespectful behavior toward the supervisor. The claimant attempted to perform her job duties as required. The claimant's inability to meet the employer's standards was not from carelessness or negligence. It was not shown that the claimant consciously disregarded the employer's interests or violated the standards of behavior that the employer had a right to expect. When the claimant questioned the supervisor about taking mail downtown, the claimant was busy with other work. The claimant acted reasonably as an assistant manager and made alternative arrangements. When she questioned the supervisor about talking in person instead of via email, the claimant was seeking clarification. The claimant was trying to perform the job efficiently and properly. The claimant did not intentionally violate any know rules. It is held that the claimant was discharged for reasons that do not meet the statutory definition of misconduct connected with the work. The claimant remains entitled to benefits.

The hearing officer was presented with conflicting testimony regarding material issues of fact and is charged with resolving these conflicts. The Reemployment Assistance Appeals Commission set forth factors to be considered in resolving credibility questions. These include the witness' opportunity and capacity to observe the event or act in question; any prior inconsistent statement by the witness; witness bias or lack of bias; the contradiction of the witness' version of events by other evidence or its consistency with other evidence; the inherent improbability of the witness' version of events; and the witness' demeanor. Upon considering these