

IN THE COURT OF APPEALS OF TENNESSEE  
EASTERN SECTION

**FILED**

November 1, 1995

Cecil Crowson, Jr.  
Appellate Court Clerk

LI SA JONES, CHARLOTTE TACKETT, ) C/ A NO. 03A01-9506-CF-00187  
and JENETTA BROCK, )  
)  
Appellants, )  
)  
v. ) CAMPBELL CHANCERY  
)  
) HON. BILLY JOE WHITE,  
) JUDGE  
)  
)  
JAMES DAVENPORT, COMMISSIONER, )  
TENNESSEE DEPARTMENT OF )  
EMPLOYMENT SECURITY, )  
)  
and )  
)  
LAKE CITY HEALTH CARE CENTER, ) AFFIRMED  
) AND  
Appellee. ) REMANDED

MICHAEL C. MURPHY, Mrristown, for Appellants.

CHARLES W BURSON, Attorney General and Reporter,  
ROBERT W STACK and JAMES H. TUCKER, JR., Assistant Attorney  
General, Nashville, for Appellee, Commissioner, Tennessee  
Department of Employment Security.

**OPINION**

Franks. J.

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<sup>1</sup> The Court of Appeals' Rules provide:

RULE 10. AFFIRMANCE WITHOUT OPINION

(a) The Court, with the concurrence of all judges participating in the case, may affirm the action of the trial court by order without rendering a formal opinion when an opinion would have no precedential value and one or more of the following circumstances exist and are dispositive of the appeal:

- (1) the Court concurs in the facts as found or as found by necessary implication of the trial court.
- (2) there is material evidence to support the verdict of the jury.
- (3) no reversible error of law appears.

Such cases may be affirmed as follows: "Affirmed in accordance with Court of Appeals Rule 10(a)."

Appellants' appeal from the Chancellor's determination that the denial of unemployment benefits was properly based on the employees' misconduct connected with their work. *See* T. C. A. §50-7-303(a)(2).

The Chancellor in finding there was "ample evidence for the decision" said

the appeals tribunal in this case found that the employees were discharged in accordance with the employer's work policy of "conduct detrimental to patient care or central operations resulting in neglect or abuse of patient". The appeals tribunal found that the employees allowed a patient to remain on the floor for an inappropriate time period which resulted in severe neglect or harming of the patient. This finding was based upon the testimony of eyewitnesses. This finding of fact was adopted by the Board of Review.

The issue on appeal is whether there was substantial and material evidence to support the denial of benefits.

T. C. A. §50-7-304(i). There is testimony from witnesses which was found credible to the effect that the patient fell and was allowed to remain on the floor, crawling and thrashing around in a partially nude condition for up to thirty minutes before being properly restrained and returned to her room by appellants, who were responsible for the patients' care.

We conclude that the Chancellor's judgment should be affirmed pursuant to Rule 10(a) of this Court.

Accordingly, the cause is remanded to the Trial Court with costs of the appeal assessed to appellants.

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Herschel P. Franks, J.

CONCUR:

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Don T. Mc Murray, J.

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Charles D. Susano, Jr., J.