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Minn. Stat. § 480A.08, subd. 3 (2016).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A18-0017**

Isha Moore,
Relator,

vs.

I C System, Inc.,
Respondent,

Department of Employment and Economic Development,
Respondent.

**Filed October 22, 2018
Affirmed
Ross, Judge**

Department of Employment and Economic Development
File No. 35806152-3

Isha Moore, St. Paul, Minnesota (pro se relator)

Michelle Kreidler Dove, St. Paul, Minnesota (for respondent employer)

Lee B. Nelson, Minnesota Department of Employment and Economic Development,
St. Paul, Minnesota (for respondent department)

Considered and decided by Reyes, Presiding Judge; Ross, Judge; and Florey, Judge.

U N P U B L I S H E D O P I N I O N

ROSS, Judge

Collections agency IC System Inc. terminated Isha Moore's employment after she yelled a profanity at a coworker. Moore sought unemployment benefits, asserting that her

termination was a “cover up” of workplace harassment that IC System failed to adequately investigate. The department of employment and economic development refused to award benefits, and an unemployment law judge found that the company discharged Moore for misconduct rather than for the reasons Moore asserted. Because the record supports the unemployment law judge’s finding, we affirm.

FACTS

IC System employed Isha Moore as a bill collector for four months and terminated her employment following a shouting match with another employee, A.H. Moore sought but was denied unemployment benefits through the department of employment and economic development. She challenged that denial at a hearing before an unemployment law judge (ULJ).

An IC System manager gave the ULJ multiple reasons for Moore’s discharge. She called a coworker “grimey.” She failed to submit a shift schedule even after being instructed to do so. She arrived to work late and left early. She missed work without timely informing her supervisor. She refused to meet with her supervisor. She ignored her supervisor’s attempts to discuss her behavioral issues. According to IC System, Moore’s shouting and cursing at A.H. was simply the last straw.

Moore gave a different story. She said that other collectors, including A.H., became intimidated by her job performance and therefore harassed her with jokes about her appearance and voice. One employee corroborated Moore’s account, writing that some of the experienced collectors made “little comments about” Moore’s work and did “little

things to start stuff.” Moore says she complained about the perceived mistreatment to the human resources director, Joe Erickson.

Erickson investigated. He did not find that Moore was harassed, but he did believe that some of her relationships with other employees were negative. Erickson said he asked Moore if he could do anything to help, and Moore told him no, because by then things had improved by her changing workstations. Erickson testified that, although Moore again complained weeks later, he did not investigate anew because she provided no specifics. Moore’s negative interactions with other employees erupted in a loud confrontation with A.H., during which Moore admitted she responded with a profanity.

The ULJ found that IC System terminated Moore’s employment for employee misconduct, not as retaliation for her harassment allegations, affirming the department’s decision denying Moore’s request for benefits. Moore appeals by certiorari.

D E C I S I O N

Moore argues that the ULJ erred by finding that she was discharged for employee misconduct, a finding that renders her ineligible for unemployment benefits. We review the ULJ’s factual findings in the light most favorable to the decision and will not disturb them if record evidence reasonably tends to support them. *Wilson v. Mortg. Res. Ctr., Inc.*, 888 N.W.2d 452, 460 (Minn. 2016). Whether specified behavior constitutes disqualifying conduct is a question of law we review de novo. *Id.*

The ULJ found that IC System discharged Moore for employment misconduct, specifically, being repeatedly insubordinate and disrespectful. “Employment misconduct means any intentional, negligent, or indifferent conduct, on the job or off the job that

displays clearly: (1) a serious violation of the standards of behavior the employer has the right to reasonably expect of the employee; or (2) a substantial lack of concern for the employment.” Minn. Stat. § 268.095, subd. 6(a) (2016). The ULJ found that IC System reasonably expected its employees to treat each other respectfully and refrain from profane or abusive language and that Moore’s conduct failed to meet that expectation. Those findings are supported by the evidence, leading us to affirm.

Moore’s three arguments do not lead to a different result. She argues first that her behavior naturally resulted from her alleged mistreatment or harassment by other employees. Our question on review in this unemployment-benefits appeal, however, is not whether IC System should have overlooked employment misconduct because it was allegedly provoked, but whether the ULJ had a sufficient evidentiary basis for finding that IC System discharged Moore for her misconduct. Moore argues second that her discharge was unjustified because her antagonist was not also discharged. But a person discharged for misconduct does not escape disqualification from receiving benefits by identifying others who allegedly engaged in similar misconduct without discharge. *See Dean v. Allied Aviation Fueling Co.*, 381 N.W.2d 80, 83 (Minn. App. 1986). And Moore argues third that the ULJ was biased and underqualified, an argument that is too lacking in support to warrant discussion.

Affirmed.