

*This opinion is nonprecedential except as provided by
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A21-1274**

Billie Edmonds,
Relator,

vs.

Intermediate School District #917,
Respondent,

Department of Employment and Economic Development,
Respondent.

**Filed June 27, 2022
Affirmed
Gaïtas, Judge**

Department of Employment and Economic Development
File No. 46816254-3

Billie Edmonds, St. Paul, Minnesota (self-represented relator)

Intermediate School District #917, Rosemount, Minnesota (respondent employer)

Keri Phillips, Anne B. Froelich, Minnesota Department of Employment and Economic
Development, St. Paul, Minnesota (for respondent department)

Considered and decided by Cochran, Presiding Judge; Bryan, Judge; and Gaïtas,
Judge.

NONPRECEDENTIAL OPINION

GAÏTAS, Judge

Relator Billie Edmonds challenges the determination of an unemployment-law
judge (ULJ) that she was discharged for the misconduct of insubordination and asserts that

the ULJ failed to assist her, as a self-represented litigant, to fully develop the record. We affirm.

FACTS

Edmonds was employed for approximately four years as a full-time paraprofessional with respondent-employer Intermediate School District #917 (ISD 917) until she was discharged on June 7, 2021. Upon her discharge, Edmonds applied for unemployment benefits with respondent Minnesota Department of Employment and Economic Development (DEED). DEED found that ISD 917 discharged Edmonds for employment misconduct and issued a determination of ineligibility for unemployment benefits.

Edmonds appealed the determination and had a hearing before a ULJ. The evidence at that hearing was as follows. On November 5, 2020, the principal of the school where Edmonds worked sent Edmonds a “non-disciplinary letter,” which was intended “to remind [Edmonds] of the expectations of [her] role as a paraprofessional in [ISD] 917.” The letter noted that Edmonds had (1) disregarded a directive prohibiting Edmonds from holding any meetings that were not prearranged and approved by the administration; (2) circumvented confidentiality protocols when discussing a student with a coworker; (3) lied to ISD 917’s dean of students about work tasks; and (4) improperly shared inaccurate and confidential information with a coworker. It provided Edmonds with directives for her future conduct and cautioned that “[f]ailure to comply with these expectations can lead to progressive disciplinary action, including termination.”

On March 19, 2021, the principal sent Edmonds a second “non-disciplinary letter” noting “continued concerns” about Edmonds’s performance. This letter reminded Edmonds of the directives included in the November 2020 letter and added a new directive to “[b]ehave and conduct yourself professionally and respectfully,” along with a nonexclusive list of professional expectations.

The dean of students, who appeared before the ULJ on behalf of ISD 917, testified that Edmonds was ultimately discharged in June 2021 for insubordination based on her repeated refusal to attend mandatory meetings with school leaders.¹ According to the dean, a meeting was scheduled for March 11, 2021 and Edmonds “walked out” before she was provided with “a letter.” On May 25, 2021, Edmonds “declined a meeting, but then said that she would be able to meet and then had to reschedule.” And on June 2, 3, and 7, 2021, Edmonds was a “no show” for meetings. The dean testified that Edmonds claimed she would not attend scheduled meetings because “it was a hostile work environment” and because she did not have “any union representation available even though there was union representation available.” ISD 917 did not initially intend to discharge Edmonds. But because of the “no show” on June 7, a decision was made to discharge her.

During her testimony, Edmonds disputed the dean’s account of the events. She denied walking out of the meeting on March 11 and speculated that the dean invented this fact to “insult [her] character” and make her look like she is “not responsible and

¹ On the DEED request-for-information form submitted before the initial determination of ineligibility, ISD 917 stated that the reason for Edmonds’s discharge was “lack of professionalism, confidentiality.”

professional.” Edmonds testified that she did not attend the meeting on May 25 because she did not “feel safe.” She elaborated that she was uncomfortable at meetings because she was “disrespected, called out of [her] name . . . [she is] told things, [she is] not being asked any questions, [she is] there to sit, listen, and not speak.” Edmonds testified that she was afraid she might be physically injured in a meeting because the school leaders were “lying multiple times” and “[l]ying has been proven to get people hurt and killed, and shot.” She explained that her union representative encouraged her to attend the meeting, so she entered the meeting to let the dean and the principal know that she felt unsafe and wanted ISD 917’s superintendent present. While she was in the meeting, the principal instructed her to wear her face mask, which was mandatory for school staff, but she pointed out that she was wearing a face shield.² As to the meeting on June 3, Edmonds explained that she refused to attend because she had not heard back from the superintendent. Edmonds testified that she did not attend the meeting on June 7 because her “internet for the school was disconnected.” Finally, Edmonds alleged that the principal “was caught on record” in 2019 using a racial slur. She testified that she could provide documentation of the 2019 incident, but she did not provide further evidence to the ULJ.

Following the hearing, the ULJ determined that ISD 917 discharged Edmonds for employment misconduct and that Edmonds was ineligible for unemployment benefits. The ULJ specifically found that Edmonds’s testimony had not been credible. Edmonds moved for reconsideration and requested a transcript of the hearing before the ULJ. Although

² The dean testified that Edmonds had worn only a face shield on another occasion shortly after the dean reviewed the school’s masking policy with her.

DEED timely mailed a recording of the hearing to Edmonds, due to DEED's clerical error, she did not receive it before the determination was reconsidered. The ULJ affirmed the decision on reconsideration. On September 15, 2021, two weeks after the ULJ issued the reconsideration decision, DEED staff noticed their clerical error and again mailed the recording and a transcript of the hearing to Edmonds.

Edmonds appeals by writ of certiorari.

DECISION

I. Substantial evidence supports the ULJ's finding that Edmonds was discharged for employment misconduct.

When reviewing the decision of the ULJ, this court may affirm, remand for further proceedings, or reverse or modify the decision if the substantial rights of the relator have been prejudiced because the findings, inferences, conclusion, or decision are “(1) in violation of constitutional provisions; (2) in excess of the statutory authority or jurisdiction of the department; (3) made upon unlawful procedure; (4) affected by other error of law; (5) unsupported by substantial evidence in view of the entire record as submitted; or (6) arbitrary or capricious.” Minn. Stat. § 268.105, subd. 7(d) (2020).

Edmonds argues that the ULJ erred in concluding that she was ineligible for unemployment benefits because she committed employment misconduct. Under Minnesota law, an employee discharged from employment due to employment misconduct is not eligible to receive unemployment benefits. Minn. Stat. § 268.095, subd. 4 (2020). Employment misconduct is “any intentional, negligent, or indifferent conduct, on the job

or off the job, that is a serious violation of the standards of behavior the employer has the right to reasonably expect of the employee.” Minn. Stat. § 268.095, subd. 6(a) (2020).

Whether an employee engaged in employment misconduct presents a mixed question of fact and law. *Skarhus v. Davanni’s Inc.*, 721 N.W.2d 340, 344 (Minn. App. 2006). The question of whether the employee committed the act that constituted misconduct is one of fact. *Id.* We view a ULJ’s findings of fact in the light most favorable to the decision, *id.*, and we will not disturb those facts if the evidence substantially sustains them, Minn. Stat. § 268.105, subd. 7(d). “Substantial evidence” means at least some evidence that reasonably supports the conclusion. *See In re NorthMet Project Permit to Mine Application*, 959 N.W.2d 731, 749 (Minn. 2021) (discussing substantial-evidence standard). When testimony conflicts, we defer to the ULJ’s credibility determinations. *Cannon v. Minneapolis Police Dep’t*, 783 N.W.2d 182, 189 (Minn. App. 2010).

On the other hand, whether the employee’s act amounted to employment misconduct is a question of law that we review de novo. *Skarhus*, 721 N.W.2d at 344. “As a general rule, refusing to abide by an employer’s reasonable policies and requests amounts to disqualifying misconduct.” *Schmidgall v. FilmTec Corp.*, 644 N.W.2d 801, 804 (Minn. 2002).

Here, the ULJ found:

Edmonds showed a pattern of insubordination in dealing with ISD 917’s leadership. She walked out of a meeting on March 11. She unilaterally cancelled a meeting on May 25 and then refused a directive to put on her mask. She refused to attend mandatory meetings on June 3 and 7. Edmonds’s conduct showed clearly a serious violation of the standards of

behavior the employer has a right to reasonably expect of the employee and constituted employment misconduct.

Edmonds challenges the ULJ's finding. She argues that the testimony of the dean of students, who testified before the ULJ on behalf of ISD 917, was untruthful. Edmonds also contends that her conduct was not employment misconduct, but instead, was a "good faith" response to an "intense hostile work environment."

The ULJ found that the dean's testimony was credible, and that Edmonds's testimony was not. Moreover, the ULJ explained its credibility determinations. The ULJ observed that the dean "presented her testimony in a clear and straightforward manner," "answered questions without hesitation," and "quickly corrected her testimony when she noticed an error," and that nothing about her testimony "suggested deception." By contrast, the ULJ found that Edmonds's testimony "suggested evasion and an intent to deceive." Specifically, the ULJ noted that Edmonds's responses to questions about whether she was wearing a mask were clearly dishonest. The ULJ also stated that Edmonds's manner of answering questions regarding her claim that attending a meeting would jeopardize her physical safety "suggested exaggeration and deception." Given our standard of review, we must defer to the ULJ's credibility determinations.

Based on our review of the record, we also conclude that substantial evidence supports the ULJ's findings regarding Edmonds's conduct. The dean's testimony established that Edmonds refused to attend multiple meetings with school leaders to discuss her employment conduct. And she refused to follow an order to wear her face mask in compliance with school policy at the time.

Finally, applying de novo review, we conclude that Edmonds's conduct was employment misconduct. It is reasonable that an employer would expect an employee to attend and remain in meetings with leadership and follow pandemic masking directives. *See* Minn. Stat. § 268.095, subd. 6(a). When an employee's refusal to carry out a directive of the employer is "deliberate, calculated, and intentional," then the refusal is misconduct. *McGowan v. Exec. Express Transp. Enters., Inc.*, 420 N.W.2d 592, 596 (Minn. 1998). Here, where Edmonds refused to attend meetings with school leaders and disobeyed a directive to wear her mask, her conduct was deliberate, calculated, and intentional, and constituted employment misconduct.

II. Edmonds's claims of error do not warrant an additional hearing before a ULJ.

Edmonds argues that she is entitled to an additional hearing before a ULJ on several grounds. She first contends that the ULJ failed to sufficiently assist her in developing the factual record during the proceedings below. To support this argument, she alleges that there were multiple deficiencies in the hearing before the ULJ. She points out that the ULJ held the hearing even though neither party had all of the exhibits considered by the ULJ. She contends that the ULJ did not review exhibits that were "critical for her [unemployment-benefits] eligibility." She appears to argue that she was not permitted to explain the cause of her termination. She asserts that the ULJ should have considered camera footage from May 18 through May 25, 2021—which neither party presented—as evidence. Finally, she argues that the ULJ erred by not conducting "a necessary evidentiary hearing."

A ULJ “must assist all parties in the presentation of evidence,” and “ensure that all relevant facts are clearly and fully developed.” Minn. R. 3310.2921 (2021). Furthermore, “ULJs have a duty to reasonably assist pro se parties with the presentation of the evidence and the proper development of the record.” *Thompson v. County of Hennepin*, 660 N.W.2d 157, 161 (Minn. App. 2003). But a ULJ does not function as “the unrepresented party’s advocate; the evidentiary hearing is a fact-gathering endeavor, and, like all judicial and quasi-judicial fact-gathering endeavors, it is still adversarial and requires the judicial officer to maintain neutrality to assure fairness to all parties.” *Stassen v. Lone Mountain Truck Leasing, LLC*, 814 N.W.2d 25, 32 (Minn. App. 2012) (citations omitted).

Based on our careful review of the record, we conclude that the ULJ struck the appropriate balance between ensuring that the factual record was developed and maintaining neutrality. The ULJ admitted and considered exhibits offered by the parties, including an exhibit that Edmonds faxed to DEED the day before the hearing and after the deadline for submitting exhibits. Although Edmonds told the ULJ at the outset of the hearing that she had not received one exhibit—a series of letters from the school district to Edmonds, which included the November 5, 2021 and March 19, 2021 nondisciplinary letters and the June 7, 2021 termination letter—she did not object to the admission of that exhibit or challenge its contents. The ULJ asked appropriate questions for eliciting relevant facts. And the ULJ gave the parties ample opportunities to respond to testimony and to present additional testimony.

In a related argument, Edwards contends that the ULJ made its decision based on an incomplete factual record. She first presented this argument to the ULJ in her request

for reconsideration. In seeking reconsideration, Edwards pointed out that there had been no testimony from an expert witness “regarding mental safety” or a union representative. She also made a general allegation of missing evidence. A ULJ must order an additional hearing upon a request for reconsideration “if a party shows that evidence which was not submitted at the hearing . . . would likely change the outcome of the decision and there was good cause for not having previously submitted that evidence.” Minn. Stat. § 268.105, subd. 2(c) (2020). In denying reconsideration, the ULJ noted that its decision was based on a credibility determination and “there is nothing in Edmonds’s request for reconsideration that leads the ULJ to change the credibility finding, amend the decision, or reopen the record.” We see no abuse of discretion in the ULJ’s decision to deny reconsideration on this basis. *See Kelly v. Ambassador Press, Inc.*, 792 N.W.2d 103, 104 (Minn. App. 2010) (stating that we do “not reverse a ULJ’s decision to deny an additional evidentiary hearing unless the decision constitutes an abuse of discretion”).

Again, before this court, Edmonds generally alleges that the ULJ should have considered additional evidence. She also refers to video evidence that neither party offered. Because Edmonds does not show that additional evidence would likely have changed the outcome of the proceeding or provide any reason for failing to submit such evidence, we reject this argument.

Finally, Edmonds argues that she is entitled to an additional hearing because DEED did not provide her with the record of testimony from the evidentiary hearing during the request-for-reconsideration period. Edmonds argues that this violated “due process” because the “information that was present [in the record of testimony on reconsideration]

was likely false and had an effect on the outcome.” She also contends that she could have better prepared her request for reconsideration if she had been provided a transcript before the deadline.

Edmonds cites no authority, and we are aware of none, requiring DEED to provide a transcript to an applicant before the reconsideration deadline. Nevertheless, DEED attempted to provide a recording of the hearing to Edmonds. Although it is unfortunate that the recording did not reach Edmonds before the reconsideration deadline, it did not impact the ULJ’s decision on reconsideration. As the ULJ noted in denying reconsideration, the case came down to credibility; the ULJ did not believe Edmonds’s testimony. Moreover, although Edmonds now has a transcript of the hearing, she does not identify anything in the transcript that would have warranted the ULJ’s reconsideration beyond alleging that the dean’s testimony was untruthful.

Affirmed.