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Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A22-0282**

Shelbi Logue,
Relator,

vs.

Olympus America, Inc.,
Respondent,

Department of Employment and Economic Development,
Respondent.

**Filed August 22, 2022
Affirmed
Frisch, Judge**

Department of Employment and Economic Development
File No. 48005681-3

Howard L. Bolter, Bolter Law, LLC, Minneapolis, Minnesota (for relator)

Olympus America, Inc., Center Valley, Pennsylvania (respondent employer)

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

Considered and decided by Ross, Presiding Judge; Connolly, Judge; and Frisch,
Judge.

NONPRECEDENTIAL OPINION

FRISCH, Judge

Relator argues that the evidence does not substantially support the finding of an unemployment-law judge (ULJ) that relator's failure to comply with her employer's

mandatory COVID-19 vaccine policy was motivated by secular rather than religious beliefs. Because we defer to the ULJ's findings and credibility determinations as supported by the record, we affirm.

FACTS

Relator Shelbi Logue worked for respondent Olympus America, Inc. selling medical devices to health-care providers for about two-and-a-half years. In August 2021, Olympus informed field employees such as Logue that they must be fully vaccinated against COVID-19 as part of their job requirements.

On September 27, 2021, Logue requested a religious exemption from the vaccine mandate. She emailed a letter to Olympus wherein she represented that her religious beliefs compel her to refuse the COVID-19 vaccine. Logue asserted, "Due to my sincerely held religious convictions, I cannot in good conscience take part in receiving any of the available COVID-19 vaccines right now." She explained that she recently gave birth, was nursing the baby, did not want to undertake any risks to the baby, the COVID-19 vaccine was "an experiment" and "unsafe," and God had "moved on [her] heart and conscience that [she] must not accept any of the COVID-19 vaccines right now."

That same day, a human-resources officer requested more information from Logue about her religious-exemption request. The officer asked whether Logue "intend[ed] to get the vaccine in the future, or if you instead do not plan to get vaccinated." Logue replied that "it is my intention to take the vaccine but only after I've had a chance to reevaluate the information available on the COVID-19 vaccines." The officer then requested in pertinent part that Logue explain "how the specific religious belief or practice you observe prevents

you from receiving a COVID-19 vaccine.” A day later, Logue replied that her faith dictates that she must avoid “receiving foreign toxins with harmful or unknown effects, while also maximizing nutrition and cultivating a healthy natural immune system in accordance with God’s design.”

Logue later testified that she also sought a medical exemption from the vaccine requirement, but her doctor would not support the exemption request.

On October 5, 2021, Olympus terminated Logue’s employment because she did not adhere to the vaccine requirement. Logue applied to respondent Minnesota Department of Employment and Economic Development (DEED) for unemployment benefits. DEED found that Logue was ineligible for unemployment benefits because she was discharged for employment misconduct. Logue timely appealed DEED’s determination to a ULJ.

Following an evidentiary hearing, the ULJ determined that Logue was ineligible for unemployment benefits. The ULJ discredited Logue’s testimony and determined instead that “[a] preponderance of the evidence shows Logue’s refusal was based on her own personal secular reasoning and not a sincerely held religious belief or practice.” The ULJ also found, based on the record evidence, that it was “more likely that Logue’s refusal to get the COVID-19 vaccine was due to her personal beliefs about the safety of the vaccine and desire to wait until she was done nursing and not for religious reasons.” The ULJ affirmed the decision on reconsideration.

Logue appeals by writ of certiorari.

DECISION

Logue challenges the ULJ's ineligibility-for-benefits decision, arguing that she did not commit misconduct under Minnesota Statutes section 268.095, subdivision 6 (2020), by refusing to comply with her employer's requirement to take the COVID-19 vaccine. "Whether an employee committed employment misconduct is a mixed question of fact and law." *Skarhus v. Davanni's Inc.*, 721 N.W.2d 340, 344 (Minn. App. 2006). "Whether the act committed by the employee constitutes employment misconduct is a question of law, which we review de novo." *Id.* But we review a ULJ's factual findings in the light most favorable to the decision and defer to the ULJ's credibility determinations. *Id.* We "will not disturb the ULJ's factual findings when the evidence substantially supports them." *Peterson v. Nw. Airlines, Inc.*, 753 N.W.2d 771, 774 (Minn. App. 2008), *rev. denied* (Minn. Oct. 1, 2008). Because the record supports the ULJ's credibility determination, we affirm the ineligibility decision.

Employment misconduct is "any intentional . . . 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). Conduct based on an employee's sincerely held religious beliefs is not misconduct. *Frazee v. Ill. Dep't of Emp. Sec.*, 489 US. 829, 834 (1989). But this protection does not extend to conduct motivated by secular beliefs. *Id.* at 833. And whether a person's conduct is motivated by religious or secular views is a question of fact. *In re Welfare of T.K.*, 475 N.W.2d 88, 91 (Minn. App. 1991).

Logue argues that the substantial evidence does not support the ULJ's finding that her refusal to be vaccinated was based on secular rather than sincerely held religious beliefs. We disagree. Ample record evidence exists to support the ULJ's conclusions. Logue questioned the safety and efficacy of the COVID-19 vaccine for her and her infant daughter and sought a medical exemption from Olympus's mandate. She directly questioned the safety of the vaccines, stating that "very little is scientifically known about these COVID-19 vaccines on humans," and that "taking part in an experiment" would be "unsafe" and put her daughter's "life at risk." She also stated that she was unwilling to take the vaccine "right now," but conceded that she intended to "after [she] had a chance to reevaluate the information available including any new data on the COVID-19 vaccines and then make a definitive decision from there." These are secular rationales for not taking the vaccine.

Logue was unable to secure her doctor's support for the request for medical exemption from the COVID-19 vaccine. She invoked her religious beliefs as a basis to refuse the vaccine mandate. But the ULJ did not credit Logue's religious-based explanation for her refusal to take the vaccine and instead credited the evidence showing that Logue's secular beliefs motivated her decision to refuse the vaccine. Because the evidence substantially supports this credibility determination, "we will not disturb the ULJ's factual findings." *Peterson*, 753 N.W.2d at 774. And we reiterate that we regularly defer to the credibility determinations of the ULJ grounded in record evidence, regardless of the subject matter of the question presented. *See Icenhower v. Total Auto., Inc.*, 845 N.W.2d 849, 855 (Minn. App. 2014); *Ywsyf v. Teleplan Wireless Servs.*, 726 N.W.2d 525,

531 (Minn. App. 2007); *Skarhus*, 721 N.W.2d at 344; *see also In re Civ. Commitment of Kenney*, 963 N.W.2d 214, 223 (Minn. 2021) (“When the record reasonably supports the findings at issue on appeal, it is immaterial that the record might also provide a reasonable basis for inferences and findings to the contrary.” (quotation omitted)).

Accordingly, we affirm the ineligibility decision because the substantial evidence supports the ULJ’s finding that Logue’s conduct was motivated by her secular and not religious beliefs.

Affirmed.