

*This opinion is nonprecedential except as provided by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
A23-0419**

St. Paul Department of Human Rights and Equal Economic Opportunity,
Respondent,

vs.

CareMate Home Health Care, Inc.,
Relator.

**Filed January 29, 2024
Affirmed
Kirk, Judge***

St. Paul Department of Human Rights and Equal Economic Opportunity
File No. 19-98

Lyndsey M. Olson, St. Paul City Attorney, David Gorski, Assistant City Attorney, St. Paul,
Minnesota (for respondent)

Jacob H. Fox, Joseph H. Dudley, Dudley & Smith, P.A., Mendota Heights, Minnesota (for
relator)

Considered and decided by Johnson, Presiding Judge; Frisch, Judge; and Kirk,
Judge.

NONPRECEDENTIAL OPINION

KIRK, Judge

In this certiorari appeal, relator CareMate Home Health Care, Inc. challenges the
determination by respondent St. Paul Department of Human Rights and Equal Economic

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to
Minn. Const. art. VI, § 10.

Opportunity (the department) that CareMate violated St. Paul's Earned Sick and Safe Time ordinance. Because we conclude that the department did not make any legal error, the department's determination was not arbitrary nor unsupported by substantial evidence, and there was no violation of CareMate's right to due process, we affirm.

FACTS

In 2020, the department sent CareMate a notice of investigation stating that an employee alleged that CareMate may be in violation of the St. Paul Earned Sick and Safe Time (ESST) ordinance. *See* St. Paul, Minn., Legislative Code (SPLC) §§ 233.03-.04 (2020). The department and CareMate also clarified the scope of investigation through email.

In 2022, the department issued a determination stating that CareMate "failed to provide sufficient range of ESST notice" and application of its ESST policy was deficient. The department reasoned that a poster in CareMate's office was insufficient notice because many of CareMate's employees did not need to enter the office location for work. The department ordered backpay for the impacted employees totaling \$32,942.

CareMate appealed the decision to the St. Paul Human Rights and Equal Economic Opportunity Commission (the commission). After a hearing, the commission concluded in a written decision that the determination was not clearly erroneous and upheld the department's determination of violation. CareMate seeks judicial review by way of a petition for a writ of certiorari.

DECISION

On appeal, CareMate argues that the department erred in its determination of violation and that the commission erred in affirming that determination. CareMate makes three arguments in support of its request that this court reverse.

Appellate courts review quasi-judicial decisions “under a ‘limited and nonintrusive standard of review.’” *Reetz v. City of Saint Paul*, 956 N.W.2d 238, 244 (Minn. 2021) (quoting *Sawh v. City of Lino Lakes*, 823 N.W.2d 627, 635 (Minn. 2012)). However, this court may nevertheless reverse if the determination “is ‘arbitrary, oppressive, unreasonable, fraudulent, under an erroneous theory of law, or without any evidence to support it.’” *Id.* (quoting *Dietz v. Dodge Cnty.*, 487 N.W.2d 237, 239 (Minn. 1992)). Substantial evidence to support a determination consists of: “1) such relevant evidence as a reasonable mind might accept as adequate to support a conclusion; 2) more than a scintilla of evidence; 3) more than some evidence; 4) more than any evidence; and 5) evidence considered in its entirety.” *Am. Fed’n of State, Cnty. & Mun. Emps., Council No. 14, St. Paul v. Cnty. of Ramsey*, 513 N.W.2d 257, 259 (Minn. App. 1994). The decision is arbitrary and capricious if the agency:

relied on factors which the legislature had not intended it to consider, if it entirely failed to consider an important aspect of the problem, if it offered an explanation for the decision that runs counter to the evidence, or if the decision is so implausible that it could not be ascribed to a difference in view or the product of agency expertise.

Minn. Transitions Charter Sch. v. Comm’r of Minn. Dep’t of Educ., 844 N.W.2d 223, 235 (Minn. App. 2014).

CareMate makes three arguments in favor of reversal. First, CareMate argues that the department legally erred by exceeding its authority. Second, CareMate argues that the determination was arbitrary, capricious, and unsupported by substantial evidence. Third, CareMate argues that the department and commission violated its right to due process. Each argument is addressed in turn.

I. The department did not apply an erroneous theory of law.

CareMate argues that the department legally erred when it did not follow its own investigative procedures.¹

In its rules, the department defined an investigative process that requires a notice of investigation be sent by U.S. mail describing the allegations and allows the department to send later requests for additional relevant information. St. Paul Rules for ESST Enforcement, *Investigation Process* (1)-(10); *see also* SPLC §§ 233.12(b), .13(b) (2020) (authorizing rulemaking authority and outlining investigative process). The department is authorized to order backpay and additional liquidated damages. SPLC § 233.13(d) (2020).

The department notified CareMate by U.S. mail and communicated through email to seek additional relevant information. The department determined that CareMate violated the ordinance and ordered backpay totaling \$32,942. Notably the department did not order additional liquidated damages. *Id.* CareMate has not made an argument that persuades us that the department made any legal error.

¹ CareMate characterizes this argument as the department “exceeding its statutory authority” but does not identify a statute that is implicated in this case.

II. The determination was not arbitrary, nor unsupported by substantial evidence.

CareMate argues substantial evidence supports that it complied with the notice requirements by putting a poster notice in its office and the department was arbitrary in requiring a “range of notice.” CareMate also argues the commission’s determination is unsupported by substantial evidence.

An employer “may comply” with the ordinance by “displaying the poster in a conspicuous and accessible place in each establishment where such employees are employed.” SPLC § 233.07(c) (2020). CareMate could only satisfy the notice requirement by other means because a majority of CareMate’s employees do not need to enter the office for their job duties. The record does not show that CareMate provided notice in another manner. Additionally, the record shows the lack of notice corresponds in time to an absence of ESST use. This supports the department’s finding that employees had not received notice of ESST benefits. Finally, the commission did not receive evidence that refuted that determination.

On the record presented, we find this sufficient to clear the low hurdle needed to establish that the determination was not arbitrary and was supported by substantial evidence. Thus, we defer to the department’s discretion. *Reetz*, 956 N.W.2d at 244.

III. There was no violation of CareMate’s right to due process.

CareMate argues its due-process rights were violated because the notice of investigation did not cite to subsections of the ordinance. CareMate also argues the

commission did not provide a fair and impartial consideration on administrative appeal because the commission is staffed by and partners with the department.

The United States and Minnesota Constitutions provide that a person's life, liberty, or property shall not be deprived "without due process of law." U.S. Const. amend. XIV, § 1; Minn. Const. art. 1, § 7. Whether the government has violated a person's procedural due-process rights is a question of law. *Zellman ex rel. M.Z. v. Indep. Sch. Dist. No. 2758*, 594 N.W.2d 216, 220 (Minn. App. 1999), *rev. denied* (Minn. July 28, 1999).

In determining whether an individual's procedural due-process rights have been violated, we first examine "the private interest that will be affected by the official action," second, "the risk of an erroneous deprivation of such interest through the procedures used, and . . . additional or substitute procedural safeguards," and third, "the [g]overnment's interest." *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976); *Sawh*, 823 N.W.2d at 632.

First, the \$32,942 of backpay is a sizable amount of money but is not large compared to CareMate's 2019 payroll of over \$3 million. This does not weigh in CareMate's favor.

Second, CareMate was notified of the investigation including that allegations were related to ESST accrual and pay scale. The department asked detailed follow-up questions. CareMate did not need subsections to prepare a response.

Additionally, CareMate exercised its right to an administrative appeal and had time for oral arguments and rebuttal. SPLC § 233.14(a) (2020). There is no great risk of erroneous deprivation with these layers of procedure.

Third, St. Paul enacted the ordinance to allow employees to take time off from work for sickness of themselves or family members. SPLC § 233.01(1) (2020). If an employer does not provide that benefit, it is in the government's interest to remedy the situation.

Finally, there is no evidence presented showing the commission is biased. CareMate has not sufficiently alleged the "average [person]" would forget the burden of proof when sitting on the commission. *In re Khan*, 804 N.W.2d 132, 137 (Minn. App. 2011). Therefore, we affirm.

Affirmed.