

*This opinion is nonprecedential except as provided by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
A24-1668**

Sisay N. Beri,
Relator,

vs.

Transit Team, Inc.,
Respondent,

Department of Employment and Economic Development,
Respondent.

**Filed July 7, 2025
Affirmed
Ede, Judge**

Department of Employment and Economic Development
50560190-3

Sisay N. Beri, Minneapolis, Minnesota (pro se relator)

Transit Team, Inc., Minneapolis, Minnesota (respondent employer)

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

Considered and decided by Slieter, Presiding Judge; Ede, Judge; and Bond, Judge.

NONPRECEDENTIAL OPINION

EDE, Judge

In this certiorari appeal, relator employee challenges the decision of an unemployment-law judge (ULJ) that he is ineligible for unemployment benefits because he was discharged for employment misconduct and aggravated employment misconduct.

Relator argues that the ULJ erred by (A) determining that he engaged in employment misconduct, (B) determining that he engaged in aggravated employment misconduct, and (C) failing to assist him in presenting evidence and to ensure that all relevant facts were clearly and fully developed. Because the ULJ's determinations that relator committed employment misconduct and aggravated employment misconduct are supported by substantial evidence, and because relator received a fair opportunity to present his claims, we discern no basis to reverse the ULJ's ineligibility decision and therefore affirm.

FACTS

Relator Sisay N. Beri was discharged by his employer, Transit Team Inc., after an incident that occurred while Beri was working. Respondent Minnesota Department of Employment and Economic Development (DEED) deemed Beri ineligible for unemployment benefits, and Beri appealed to a ULJ. The following facts stem from the ULJ's evidentiary hearing.

Transit Team contracts with Metro Mobility to provide transportation services for vulnerable adults. Beri was employed full-time as a paratransit driver from October 2021 to April 2024. Transit Team terminated Beri's employment for failing to properly secure a vulnerable adult (the client) during transport, in violation of Transit Team's written policies.

Transit Team trains its employees on safety measures, including the safe use of seatbelts. Under Transit Team's five-point strap-down procedure for securing wheelchairs, drivers are required to secure the wheelchair to the floor and then use a lap strap and a chest strap to create "a full-functioning seatbelt." Transit Team's human-resources

representative, who testified during the evidentiary hearing, explained that Transit Team’s clients are vulnerable adults and that, if a client’s wheelchair is not properly secured, the client “can either pull at the strap, [or] choke on it, . . . and [Transit Team is] responsible for their safety.” Beri completed Transit Team’s trainings and passed the company’s tests on these procedures.

On April 8, 2024, Beri picked up the client, who used the assistance of a wheelchair. Beri secured the client’s wheelchair, as required by Transit Team’s policies. During the trip, the client told Beri that the seatbelt was too tight. Beri loosened the seatbelt and continued driving. After the seatbelt was loosened, the client began yelling for help because his position in the wheelchair had shifted and the seatbelt had slid around his neck. Video footage from within the bus that Beri was driving shows the client repeatedly trying to alert Beri and yelling, “Can you help me with the seatbelt, it’s around my neck!” At one point, the client stated that he was going to fall on the floor. After several minutes, the client stopped yelling and lost consciousness. The client “ultimately slip[ped] out of his wheelchair” and fell to the floor of the bus, with the “seatbelt around his neck.”

Beri testified at the evidentiary hearing that he did not hear the client calling for help. The video footage, however, reflects that Beri looked in the rearview mirror and turned around after the client made noise several times. Beri did not stop the bus or call for assistance. By the time that Beri arrived at the client’s destination, the client was “unresponsive.” Beri called for an ambulance to assist the client.

After investigating the incident and reviewing the video footage, Transit Team terminated Beri’s employment. Beri later applied to DEED for unemployment benefits.

DEED ultimately determined that Beri was ineligible for unemployment benefits because he was discharged for employment misconduct. Beri appealed DEED's determination.

The ULJ conducted a three-day evidentiary hearing to consider whether Beri was discharged for employment misconduct and aggravated employment misconduct. Beri and an acquaintance of Beri's testified on his behalf. A human-resources representative testified on behalf of Transit Team.

In a written decision, the ULJ determined that Beri was discharged for employment misconduct and aggravated employment misconduct. Accordingly, the ULJ ruled that Beri was ineligible to receive unemployment benefits. Beri requested reconsideration of the ULJ's decision. The ULJ denied that request and affirmed.

This certiorari appeal follows.

DECISION

Beri challenges the ULJ's decision that he is ineligible to receive unemployment benefits. He asserts that the ULJ erred by (A) determining that he engaged in employment misconduct, (B) determining that he engaged in aggravated employment misconduct, and (C) failing to assist him in presenting evidence and to ensure that all relevant facts were clearly and fully developed. More specifically, Beri contends that the ULJ's misconduct determinations lack the support of substantial evidence. And he maintains that the ULJ's failure to assist him in presenting all relevant facts and in fully developing the record resulted in a decision based on incomplete information, given that Transit Team did not submit complete video footage from within the bus that Beri was driving on the day of the incident.

When reviewing an unemployment-benefits decision, we may affirm or remand the case for further proceedings, or reverse or modify the decision if the substantial rights of the relator have been prejudiced because, among other things, the decision is unsupported by substantial evidence in view of the entire record as submitted. Minn. Stat. § 268.105, subd. 7(d) (2024). An appellate court determines whether a decision has the support of substantial evidence by evaluating if there is “(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; or (5) the evidence considered in its entirety.” *Minn. Ctr. for Env’t Advoc. v. Minn. Pollution Control Agency*, 644 N.W.2d 457, 464 (Minn. 2002).

“We view the ULJ’s factual findings in the light most favorable to the decision, giving deference to the credibility determinations made by the ULJ, . . . [and] we will not disturb the ULJ’s factual findings when the evidence substantially sustains them.” *Skarhus v. Davanni’s Inc.*, 721 N.W.2d 340, 344 (Minn. App. 2006) (citations omitted). “Credibility determinations are the exclusive province of the ULJ and will not be disturbed on appeal.” *Bangtson v. Allina Med. Grp.*, 766 N.W.2d 328, 332 (Minn. App. 2009) (quotation omitted); *see also Ywsfw v. Teleplan Wireless Servs., Inc.*, 726 N.W.2d 525, 531–33 (Minn. App. 2007) (explaining that we defer to the credibility determination made by the ULJ when it is supported by substantial evidence and provides adequate reasons for the determination).

An employee who is discharged from employment for employment misconduct or aggravated employment misconduct is ineligible to receive unemployment benefits. Minn.

Stat. § 268.095, subd. 4(1)–(2) (2024). “Whether an employee engaged in conduct that disqualifies the employee from unemployment benefits is a mixed question of fact and law.” *Stagg v. Vintage Place Inc.*, 796 N.W.2d 312, 315 (Minn. 2011) (quotation omitted). In particular, “[w]hether the employee committed a particular act is a question of fact.” *Skarhus*, 721 N.W.2d at 344. “But whether the act committed by the employee constitutes employment misconduct is a question of law, which we review de novo.” *Id.*

Generally, 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 (2023). When a party is self-represented, “the ULJ must help the party to recognize and interpret the parties’ claims.” *Ntamere v. Decisionone Corp.*, 673 N.W.2d 179, 180 (Minn. App. 2003) (quotation omitted). Appellate courts review a ULJ’s compliance with these obligations de novo. *See City of Morris v. Sax Investments, Inc.*, 749 N.W.2d 1, 5 (Minn. 2008) (“The application of . . . administrative regulations . . . to undisputed facts is a legal conclusion and is reviewed de novo.”).

Below, we address each of Beri’s arguments in turn.

A. There is substantial evidence of employment misconduct in the record.

“Employment misconduct means 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) (2024). “An employer has a right to expect that its employees will abide by reasonable instructions and directions.” *Vargas v. Nw. Area Found.*, 673 N.W.2d 200, 206 (Minn. App. 2004), *rev. denied* (Minn. Mar. 30, 2004). And “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). “[W]hat is reasonable will vary according to the circumstances of each case.” *Vargas*, 673 N.W.2d at 206 (quotation omitted).

Here, the ULJ determined that Beri’s failure to secure the client—in violation of Transit Team’s policies—constituted employment misconduct. The ULJ determined that Transit Team was “entitled to reasonably expect that its drivers will use a five-point strap[-]in procedure when transporting clients in wheelchairs” and that they would “stop in an emergency.” And the ULJ decided that “[t]he preponderance of the evidence” established that Beri violated these reasonable expectations by neither securing the client nor responding to the client’s calls for help.

Substantial evidence in the record supports this decision by the ULJ. It is uncontested that Beri loosened the client’s seatbelt during the drive—a violation of Transit Team’s policies. The video footage shows that the client began “wobbling” after Beri loosened his seatbelt. For the next several minutes, the client can be heard yelling, asking for help, trying to get the driver’s attention, and requesting that Beri stop the bus. Although the video shows Beri looking in the rearview mirror and turning around, Beri neither stops the bus nor responds to the client’s cries for help. This evidence, “considered in its entirety,” supports the ULJ’s decision. *Minn. Ctr. for Env’t Advoc.*, 644 N.W.2d at 464.

Beri maintains that he did not commit employment misconduct because the client asked him to loosen the seatbelt and he did not hear the client call for help. At the evidentiary hearing, Transit Team’s human-resources representative stipulated that the

client asked Beri to loosen his seatbelt. The client's request, however, does not make Beri's action in loosening the seatbelt any less of an employer-policy violation. And because Beri does not explain how the client's request could excuse his failure to abide by Transit Team's reasonable policies, *see Schmidgall*, 644 N.W.2d at 804, we decline to consider such an argument, *see In re Reichmann Land & Cattle, LLP*, 867 N.W.2d 502, 506 n.2 (Minn. 2015) (declining to consider an argument that was "inadequately briefed").

As much as Beri's testimony that he did not hear the client call for help differs from the video footage, the ULJ gave greater weight to the latter evidence. The ULJ found that the depiction of the incident in the video footage was more credible than Beri's description of what occurred: "Beri's testimony that he did not hear the client was not credible because the audio [in the video footage] showed the client was repeatedly yelling and asking for help." We defer to this credibility determination by the ULJ, which is supported by substantial evidence—i.e., the video footage—and for which the ULJ provided an adequate reason. *See Skarhus*, 721 N.W.2d at 344; *Bangtson*, 766 N.W.2d at 332; *Ywswf*, 726 N.W.2d at 531–33.

In short, the record of the evidentiary hearing establishes that Transit Team articulated reasonable policies for securing wheelchair-bound clients in the bus and for ensuring their safe transportation. Beri's failure to properly secure the client and to respond to the client's calls for help was "a serious violation of the standards of behavior" that Transit Team had a right to reasonably expect from him. *See Minn. Stat. § 268.095*, subd. 6(a); *see also Schmidgall*, 644 N.W.2d at 804. Because substantial evidence in the record supports the ULJ's factual findings and credibility determination, we conclude that the ULJ

did not err in deciding that Beri was ineligible to receive unemployment benefits due to his commission of employment misconduct. *See* Minn. Stat. § 268.095, subd. 4; *Skarhus*, 721 N.W.2d at 344.

B. There is substantial evidence of aggravated employment misconduct in the record.

Aggravated employment misconduct includes “[t]he commission of any act, on the job or off the job, that would amount to a gross misdemeanor or felony . . . if the act had a significant adverse effect on the employment.” Minn. Stat. § 268.095, subd. 6a(a) (2024). “A criminal charge or conviction is not necessary to determine aggravated employment misconduct” under this section. *Id.* On top of resulting in ineligibility for unemployment benefits, a discharge for aggravated employment misconduct requires cancellation of wage credits from the preceding employment for purposes of an individual’s benefits account. *Id.*, subd. 10(c) (2024).

“A caregiver or operator who intentionally neglects a vulnerable adult or knowingly permits conditions to exist that result in the abuse or neglect of a vulnerable adult is guilty of a gross misdemeanor.” Minn. Stat. § 609.233, subd. 1 (2024). “Abuse” is defined, in relevant part, as “[c]onduct which is not an accident . . . , which produces or could reasonably be expected to produce physical pain or injury or emotional distress” Minn. Stat. § 626.5572, subd. 2(b) (2024). “Neglect” includes “a failure to provide a vulnerable adult with necessary . . . supervision.” Minn. Stat. § 609.233, subd. 1.

The ULJ determined that Beri “intentionally neglected the client” by loosening his seatbelt and failing to respond to the client’s repeated calls for help. In addition, the ULJ

found that, although “[t]he client repeatedly yelled for assistance with the seat belt,” “Beri kept driving.” And the ULJ determined that “[i]t was reasonably foreseeable for the loosened belt to slip, threatening the client’s safety,” and that, if Beri had not loosened the client’s belt, “the incident likely would not have occurred.” Based on these findings, the ULJ decided that “Beri failed to provide a vulnerable adult with necessary supervision to ensure the client’s safety while transporting him,” which amounted to aggravated employment misconduct.

The ULJ’s decision in that regard is supported by substantial evidence in the record. The video footage itself is substantial evidence of aggravated employment misconduct, given its depiction of Beri neglecting a vulnerable adult—the client. The video footage shows that Beri did not properly secure the client’s wheelchair, which led to the client slipping down against the strap. It captures the client’s repeated yells for help and Beri’s failure to respond. And it reveals the client’s fall to the floor of the bus and loss of consciousness with the belt around his neck. Along with the video footage of the incident, the record also includes Beri’s admission that he loosened the strap and did not respond to the client.

On this record and given the ULJ’s credibility determination, there is substantial evidence that Beri engaged in intentional conduct that “could reasonably be expected to produce physical pain or injury or emotional distress,” Minn. Stat. § 626.5572, subd. 2(b), and that he “fail[ed] to provide a vulnerable adult with necessary . . . supervision,” Minn. Stat. § 609.233, subd. 1. Accordingly, we discern no error in the ULJ’s determination that

Beri was ineligible to receive unemployment benefits because he committed aggravated employment misconduct.

C. The ULJ adequately assisted Beri in presenting evidence and ensured that all relevant facts were clearly and fully developed.

Beri asserts that the ULJ lacked access to all the relevant facts before making the decision underlying this appeal. He contends that the ULJ did not have the entire video footage from within the bus, which he claims would have shown the client asking Beri to loosen his seatbelt. And Beri maintains that the video footage the ULJ received omits the end of the interaction, which he asserts would depict the arrival of the ambulance and the client declining to go to the hospital. Based on our careful review of the record, we conclude that the ULJ adequately assisted Beri in presenting all relevant facts and in fully developing the record.

On the first hearing date, Transit Team's human-resources representative stated that she sent Beri a copy of the video footage from within the bus. But Beri said that he did not receive the whole video. The ULJ continued the hearing to a later date to allow for the production of the full video.

On the second hearing date, Transit Team submitted 18 minutes of video footage from within the bus. But the video footage did not include the portion of the incident in which Beri loosened the client's seatbelt. Transit Team's human-resources representative explained that she tried to download the entire video footage, but "it didn't work entirely from the very beginning to the very end." The human-resources representative therefore submitted "what [she] could get." Beri objected to the ULJ receiving the video footage into

evidence, arguing that it did not include the entire interaction between Beri and the client. The ULJ continued the hearing a second time to allow the human-resources representative another opportunity to locate all of the video footage.

On the third hearing date, the human-resources representative provided video footage that began when the client was strapped in, with his wheelchair on the bus. Both the ULJ and Beri stated that they did not receive the full video footage of the incident. The ULJ then concluded that, while the human-resources representative could not download and provide video footage of the entire interaction, the parties had provided testimony about the incident on the bus and the ULJ would “give the appropriate weight to the evidence that [she did] have.” Thus, the ULJ received the 18 minutes of video footage that Transit Team had previously offered into evidence. In response to a question by the ULJ, Transit Team’s human-resources representative agreed to stipulate that the client had asked Beri to loosen his seatbelt, even though the video footage that Transit Team provided to the ULJ did not depict the client’s request. The ULJ then concluded that she had “all the testimony and evidence” needed to decide the matter.

Notwithstanding the omitted portions of the video footage at the beginning and end of the incident, we discern no prejudice in the ULJ’s decision to receive the 18 minutes of footage into evidence, particularly given the parties’ factual stipulation that the client had asked Beri to loosen his seatbelt. The ULJ had twice continued the hearing and had directed Transit Team’s human-resources representative to download all of the video footage. When the human-resources representative could not retrieve a complete copy of the video footage, the ULJ asked the human-resources representative whether Transit Team would

stipulate that the client asked Beri to loosen his seatbelt, and Transit Team agreed. Based on the record before us, we are satisfied that the ULJ attempted to “assist [Beri] in the presentation of evidence” and ensured that the relevant facts were “clearly and fully developed.” Minn. R. 3310.2921.

Affirmed.