

*This opinion is nonprecedential except as provided by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
A24-1939**

Teresa McDonald,
Relator,

vs.

Monarch Bus Service,
Respondent,

Department of Employment and Economic Development,
Respondent.

**Filed September 15, 2025
Affirmed
Larson, Judge**

Department of Employment and Economic Development
File No. 50866093-3

Teresa McDonald, Cottage Grove, Minnesota (self-represented relator)

Monarch Bus Service, Hastings, Minnesota (respondent employer)

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

Considered and decided by Wheelock, Presiding Judge; Larson, Judge; and Bentley,
Judge.

NONPRECEDENTIAL OPINION

LARSON, Judge

Relator Teresa McDonald appeals from an unemployment-law judge's (ULJ)
determination that she was ineligible for unemployment benefits. Broadly, McDonald

challenges the ULJ’s determinations that she was discharged for employment misconduct and did not qualify for an exception to ineligibility. She also raises evidentiary and credibility questions. We affirm.

FACTS

McDonald worked full time as a school-bus driver for respondent-employer Monarch Bus Service from August 12, 2013, to June 7, 2024. McDonald’s discharge stemmed from three accidents—the first occurred in September 2023, the second occurred in October 2023, and the third occurred in June 2024. On June 7, 2024, the day after the third accident, Monarch notified McDonald that she had been placed on a three-day suspension and that she would be contacted following the third day. McDonald did not hear from Monarch until July 2, 2024, when she was officially discharged.

On July 7, 2024, McDonald applied for unemployment benefits. Respondent Minnesota Department of Employment and Economic Development issued a determination of ineligibility for unemployment benefits on the basis that McDonald was discharged for employment misconduct. McDonald appealed the ineligibility determination.

In early August 2024, McDonald was diagnosed with “[m]ajor [d]epressive [d]isorder, [r]ecurrent, [s]evere” and “[g]eneralized [a]nxiety [d]isorder.” McDonald’s medical provider advised that, despite these diagnoses, McDonald could “perform any employment” and work eight-hour days.

A ULJ held an evidentiary hearing on August 28, 2024. McDonald's former manager appeared and testified on Monarch's behalf. McDonald also appeared with counsel and testified.

The manager testified first regarding the circumstances that led to McDonald's discharge. The manager explained that McDonald was discharged because she "had three . . . accidents in a school year." The manager testified generally regarding these accidents, describing each as "preventable" and asserting that McDonald failed to report the first and third accidents as soon as they occurred—a violation of Monarch's policy requiring that all accidents be reported immediately.

Regarding the first accident, the manager described McDonald rearending the vehicle in front of her at a stop sign: "She thought the car was going to go, and the car stopped, and she was too close to the vehicle in front of her, so she rearended them." The manager testified that McDonald did not report the accident until "probably about 30 minutes" after it occurred.

Regarding the second accident, the manager testified that McDonald "was approaching a school and sideswiped a mirror of a vehicle . . . that was parked at the school." The manager explained that McDonald reported the accident as soon as she learned that it had occurred. The manager also testified that McDonald blamed the accident on a faulty steering wheel, but a mechanic who examined the bus after the accident did not find any problems with the bus or its steering wheel.

Regarding the third accident, the manager testified that McDonald ran the bus into a fence pole after "she got too close to" it while "trying to navigate through the lot" where

the buses were kept. The manager claimed that McDonald hit the pole four times. McDonald did not report this accident. When the manager asked McDonald why she did not report the accident, McDonald explained that “she was feeling sick that day and under stress.”

In response to questioning from McDonald’s attorney, the manager admitted that she “d[id] not have firsthand knowledge of . . . the three accidents,” but clarified that she reviewed video footage of them.¹ The manager described that the video footage showed both the bus’s exterior and interior, including the driver.

In response to questioning from the ULJ, the manager explained why she considered the accidents preventable. For the first accident, she explained that Monarch drivers know to have “a certain amount of space between” the bus and the vehicle in front of it to prevent rearending accidents, and that McDonald did not maintain such space during the first accident. Regarding the second accident, the manager explained that, although the space where the second accident occurred was tight and very busy, “all of our drivers navigate in small areas every single day without getting into an accident.” The ULJ then asked the manager whether she noticed anything about McDonald’s demeanor when the third accident occurred. The manager answered that McDonald did not appear to be “attentive enough of the . . . surrounding area.” The manager further explained that Monarch drivers receive training on “tail swings” and are told to always check their mirrors to ensure they

¹ The video footage was not submitted into evidence.

“clear[] objects on the rear of the bus,” but that McDonald “was not checking back and forth between her mirrors.”

McDonald testified next. Regarding the first accident, McDonald testified that the driver in front of her at a four-way stop pulled forward halfway into the intersection and suddenly braked, causing “the front cross arm of the bus” to “bump[]” the other vehicle’s taillight. McDonald described reporting the accident once she “saw the [other driver] and . . . knew everything was okay for us on the bus.”

Regarding the second accident, McDonald described pulling the bus into a school loading zone and, after parking, being informed by a woman and a school representative that she had scraped the woman’s vehicle’s sideview mirror. McDonald then reported the accident.

Regarding the third accident, McDonald described pulling the bus into the lot, failing to make a wide enough turn, and scraping the backend of the bus against a fence pole. She denied hitting the pole more than once. McDonald admitted that she did not report the accident, which occurred in the morning. Instead, McDonald left work, reported back for her afternoon shift, and completed her afternoon shift. McDonald did not discuss the accident with Monarch until that evening when they called to ask her about it. McDonald testified that she felt “distraught” the day of the accident and described it as “almost like . . . a breaking point.” McDonald explained that she did not report the accident because she “was just trying to get [her] emotions settled, [and think] better thoughts.”

In response to questioning from her attorney, McDonald testified that she was not experiencing any mental-health symptoms on the days of the first or second accidents.

On the day of the third accident, however, McDonald described having a mental health flare-up just before she struck the pole, making it “hard to concentrate.” She identified her symptoms as “grie[f], anxiety, the [in]ability to handle stress, feeling uncomfortable and just getting overwhelmed.”

The ULJ also questioned McDonald regarding her mental-health conditions. Specifically, the ULJ asked McDonald how often she experienced mental-health symptoms while driving. McDonald explained that it was only on the day of the third accident that her “emotions just took over,” but she was usually able to focus.

On September 11, 2024, the ULJ issued their findings of fact and decision. The ULJ determined that McDonald was ineligible for benefits because she was discharged for employment misconduct, and that the mental-health exception to ineligibility did not apply. The ULJ made detailed credibility findings, explaining that they credited the manager over McDonald wherever the testimony conflicted. To support their determination, the ULJ reasoned that the manager’s testimony was “clear,” “straightforward,” “detailed,” “supported by notes,” and did not “suggest inaccuracy or deception.” The ULJ also described the manager’s testimony as “presented in a logical sequence of events” and noted her ability to answer questions “quickly” and “logically.” The ULJ explained why they discredited McDonald’s testimony as well, pointing to evidence that McDonald falsely claimed that the second accident was caused by a faulty steering wheel. Although McDonald did not make the faulty-steering-wheel claim at the hearing, the ULJ reasoned that this evidence nevertheless “suggest[ed] a willingness to say inaccurate things to deflect responsibility.” The ULJ also noted other gaps in McDonald’s testimony, including that

she “could not explain” why her mental illness prevented her from checking her mirrors before turning and “never provided any clear explanation for” her failure to report the third accident.

McDonald requested reconsideration. The ULJ thereafter issued an order affirming their original decision as “factually and legally correct.” In their order, the ULJ reasoned “[t]he evidence did not support” that the events leading to McDonald’s “discharge were a consequence of her mental health impairment.”

McDonald appeals.

DECISION

McDonald challenges the ULJ’s determination that she was ineligible for unemployment benefits. As relevant here, when reviewing a ULJ’s eligibility determination, we

may affirm the decision . . . or remand the case for further proceedings; or [we] may reverse or modify the decision if the substantial rights of the petitioner may have been prejudiced because the findings, inferences, conclusion, or decision are:

. . . .

(4) affected by other error of law; [or]

(5) unsupported by substantial evidence in view of the hearing record as submitted[.]

Minn. Stat. § 268.105, subd. 7(d)(4)-(5) (2024).

Broadly speaking, McDonald makes the following arguments: (1) the ULJ’s decision that McDonald engaged in employment misconduct was not supported by substantial evidence and, even if it was, her conduct falls into an exception to ineligibility; (2) the ULJ made improper credibility determinations; (3) the ULJ abused their discretion

when they permitted the manager to testify regarding the video footage; (4) the ULJ legally erred when they failed to assist the parties in developing the record; and (5) the ULJ legally erred when they determined her discharge date. We address each argument in turn.

I.

McDonald argues the ULJ’s determination that she engaged in employment misconduct was unsupported by substantial evidence. In the alternative, McDonald asserts that—even if she did engage in employment misconduct—the ULJ’s determination that she did not qualify for the mental-health exception was not supported by substantial evidence.² “Substantial evidence 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.” *Dourney v. CMAK Corp.*, 796 N.W.2d 537, 539 (Minn. App. 2011) (quotation omitted). We address each argument below.

A. Employment Misconduct

McDonald first argues the ULJ’s decision that she engaged in employment misconduct was unsupported by substantial evidence. We disagree.

“Whether an employee engaged in employment misconduct presents a mixed question of law and fact.” *Wichmann v. Travalia & U.S. Directives, Inc.*, 729 N.W.2d 23,

² McDonald also argues that the “inadverten[ce]” exception and the “single incident exception” apply. But McDonald did not raise these exceptions before the ULJ. Therefore, to the extent that McDonald now argues that her conduct falls under Minn. Stat. § 268.095, subd. 6(b)(2), (d) (2024), the arguments were not preserved for appellate review. See *Peterson v. Ne. Bank-Minneapolis*, 805 N.W.2d 878, 883 (Minn. App. 2011) (“[B]ecause this issue was not raised before the ULJ, it is not properly before this court on review.”).

27 (Minn. App. 2007). “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.” *Skarhus v. Davanni’s Inc.*, 721 N.W.2d 340, 344 (Minn. App. 2006) (citations omitted). “In doing so, we will not disturb the ULJ’s factual findings when the evidence substantially sustains them.” *Id.* (citing Minn. Stat. § 268.105, subd. 7(d) (Supp. 2005)). But we review de novo whether an employee engaged in employment misconduct. *See id.*

“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). “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). An employee’s knowing violation of an employer’s directives constitutes employment misconduct because such actions evince willful disregard of the employer’s interests. *Id.* at 806. “This is particularly true when there are multiple violations of the same rule involving warnings or progressive discipline.” *Id.* at 806-07.

Here, the ULJ determined that Monarch discharged McDonald due to employment misconduct; specifically, three accidents involving negligent driving and two failures to report an accident immediately.

Beginning with their decision that McDonald's negligent driving constituted employment misconduct, the ULJ made the following findings. For the first accident, McDonald rearended the car in front of her, and McDonald "could have avoided [the accident] if she had used proper spacing and paid greater attention." For the second accident, McDonald hit another vehicle's sideview mirror because she "began a turn without verifying that she had cleared the vehicle to her side" and "was not being careful and did not check her mirrors," despite Monarch training its drivers to "check their mirrors when making turns." And for the third accident, "McDonald hit the post because she was not being careful when making her turn and did not check her mirrors."

The ULJ also made the following findings with respect to McDonald's failures to report accidents. For the first accident, McDonald waited to report the accident for "approximately 30 minutes after it occurred," in violation of Monarch's policy requiring immediate reporting, which "McDonald was aware of." And for the third accident, McDonald failed to report the accident.

The ULJ's findings are well supported by the evidence presented at the hearing and the manager's testimony.³ Accordingly, we conclude that the ULJ's decision that McDonald engaged in employment misconduct was supported by substantial evidence in the record.

³ We address McDonald's challenges to the ULJ's credibility determinations in part II.

B. Mental-Health Exception

McDonald argues in the alternative that, even if she engaged in employment misconduct, the ULJ's decision that she did not qualify for the mental-health exception was unsupported by substantial evidence. Whether McDonald's conduct was a consequence of mental illness or impairment is a question of fact, and we view factual findings in the light most favorable to the ULJ's decision. *Skarhus*, 721 N.W.2d at 344; *see also White v. Univ. of Minn. Physician Corp.*, 875 N.W.2d 351, 356-57 (Minn. App. 2016) (stating claimant's "mental illness could be a relevant fact").

When an employer discharges an employee for employment misconduct, the employee is ineligible for unemployment benefits, unless the employee's actions fall under an exception. Minn. Stat. § 268.095, subds. 4(1), 6(b) (2024); *see also Wichmann*, 729 N.W.2d at 27. One exception is "conduct that was a consequence of the applicant's mental illness or impairment." Minn. Stat. § 268.095, subd. 6(b)(1). A "consequence" is "[a] result that follows as an effect of something that came before." *Black's Law Dictionary* 383 (12th ed. 2024). We have previously concluded that, where an employee's conduct was "indisputably caused by" symptoms of their mental impairment, "the conduct [was] a 'consequence of' a mental illness or impairment" under Minn. Stat. § 268.095, subd. 6(b)(1). *Cunningham v. Wal-Mart Assocs., Inc.*, 809 N.W.2d 231, 232 (Minn. App. 2011).

Here, the ULJ determined that the mental-health exception did not apply because "[t]he events that led to McDonald's discharge were not a consequence of her mental health impairments." Specifically, the ULJ found that McDonald's mental-health conditions did

not prevent her from “driv[ing] carefully,” “check[ing] her mirrors when she made turns,” and “call[ing] in and report[ing] her accidents when they happened.” Substantial evidence supports these findings. The record contains an August 2024 note from McDonald’s medical provider, indicating that she had been diagnosed with “[m]ajor [d]epressive [d]isorder, [r]ecurrent, [s]evere” and “[g]eneralized [a]nxiety [d]isorder.” The medical provider advised that, despite these conditions, McDonald could “perform any employment” and work eight-hour days.⁴

McDonald disagrees, arguing this case is analogous to *Skottegaard v. Comcast Cablevision Corp.*, No. A11-2130, 2012 WL 3792297 (Minn. App. Sept. 4, 2012).⁵ In *Skottegaard*, the relator was discharged following “a cash-shortage error and” attendance violations, including a final incident wherein she did not appear at work and did not call to inform her employer of the absence. 2012 WL 3792297, at *1. We reversed the ULJ’s determination that the relator’s misconduct was not a consequence of mental illness or impairment as unsupported by substantial evidence. *Id.* at *3. In doing so, we largely relied on the relator’s psychiatrist’s opinion, as relayed through letters submitted into the record. *Id.* at *2-3. The psychiatrist indicated that the relator’s medications affected her ability to function at work, that the relator’s anxiety caused her to exhibit “avoidance

⁴ We acknowledge that McDonald testified that she experienced mental-health symptoms immediately before and during the third accident. But the ULJ specifically found this testimony not credible, and we defer to the ULJ’s credibility determinations. See *Bangtson v. Allina Med. Grp.*, 766 N.W.2d 328, 332 (Minn. App. 2009); *Ywsyf v. Teleplan Wireless Servs., Inc.*, 726 N.W.2d 525, 533 (Minn. App. 2007).

⁵ This case is nonprecedential and, therefore, not binding. We cite nonprecedential cases as persuasive authority only. See Minn. R. Civ. App. P. 136.01, subd. 1(c).

behaviors,” and that the post-traumatic stress disorder the relator suffered after being robbed at gunpoint in the workplace exacerbated her other mental-health symptoms. *Id.*

Unlike in *Skottegaard*, the only evidence of McDonald’s medical-health conditions aside from her own testimony is a two-page document from her medical provider stating her diagnoses and indicating that these diagnoses did not prevent McDonald from “perform[ing] any employment” and working eight-hour days. And while McDonald emphasizes in her brief that, like the relator in *Skottegaard*, she experiences “avoidance behaviors” that caused her not to report the third accident, she did not identify this symptom at the hearing.

McDonald makes the related argument that, under *Skottegaard*, we must broadly interpret the “consequence of” language in Minn. Stat. § 268.095, subd. 6(b)(1), to include her conduct surrounding the third accident. McDonald is correct that, in *Skottegaard*, we described the language in Minn. Stat. § 268.095, subd. 6(b)(1), as “broad.” *Id.* at *4. But, even so, the ULJ’s findings in this case regarding McDonald’s conduct during the third accident are supported by substantial evidence in the record.

For these reasons, we conclude the ULJ’s decision that McDonald was discharged for employment misconduct and did not qualify for the mental-health exception to ineligibility is supported by substantial evidence in the record.

II.

McDonald next raises a series of issues regarding the ULJ’s credibility determinations. Specifically, McDonald argues the ULJ: (1) failed to make the credibility findings required by statute; (2) erred when they credited the manager’s testimony; and

(3) exhibited bias when they found the manager’s testimony credible. These arguments are unpersuasive.

First, we conclude the ULJ made the statutorily required credibility findings. Under Minn. Stat. § 268.105, subd. 1a(a) (2024), “When the credibility of a witness testifying in a hearing has a significant effect on the outcome of a decision, the [ULJ] must set out the reason for crediting or discrediting that testimony.” Here, the ULJ made detailed findings spanning more than a page explaining the reasons they credited the manager’s testimony and discredited McDonald’s testimony.

Second, throughout her briefing, McDonald argues that the ULJ made improper credibility findings regarding the manager. But “[c]redibility determinations are the exclusive province of the ULJ and will not be disturbed on appeal.” *Bangtson*, 766 N.W.2d at 332 (quotation omitted). “When the parties have presented conflicting evidence on the record, [we] must defer to the [ULJ’s] ability to weigh the evidence; we may not weigh that evidence on review.” *Whitehead v. Moonlight Nursing Care, Inc.*, 529 N.W.2d 350, 352 (Minn. App. 1995). Accordingly, we will not disturb the ULJ’s credibility determinations.

Last, McDonald argues the ULJ’s decision to credit the manager’s testimony reflected “a bias on the [ULJ’s] part toward a particular pattern of speech.” McDonald asserts that the ULJ credited the manager’s testimony based solely “on the manner of [the manager’s] presentation.” We are not persuaded. McDonald does not point to any authority supporting that the manner of someone’s testimony is an improper basis for finding the witness credible. *See Schoepke v. Alexander Smith & Sons Carpet Co.*, 187

N.W.2d 133, 135 (Minn. 1971) (“An assignment of error based on mere assertion and not supported by any argument or authorities in appellant’s brief is waived and will not be considered on appeal unless prejudicial error is obvious on mere inspection.”). Moreover, the ULJ cited other reasons for their credibility findings, including that the manager’s testimony was “detailed,” “supported by notes,” and “presented a logical sequence of events,” and that the manager “answer[ed] questions quickly and in a manner that flowed logically.” These are all proper reasons for crediting the manager’s testimony. *See Ywsyf*, 726 N.W.2d at 532-33 (stating ULJ may consider how a witness “remember[ed] and [told] the facts” and “any other factors that bear on believability” when evaluating witness credibility).

For these reasons, we conclude the ULJ complied with the law when making their credibility determinations, and we, accordingly, defer to those credibility determinations on appeal.

III.

McDonald next argues that the ULJ improperly allowed unreliable evidence into the record. Specifically, McDonald challenges the ULJ’s decision to allow the manager to testify about what she saw on the video footage even though the video footage was not part of the record.

We review a ULJ’s evidentiary rulings for an abuse of discretion. *CUP Foods, Inc. v. City of Minneapolis*, 633 N.W.2d 557, 566 (Minn. App. 2001), *rev. denied* (Minn. Nov. 13, 2001). Under Minn. R. 3310.2922 (2023), a ULJ “may receive any evidence that possesses probative value, including hearsay, if it is the type of evidence on which

reasonable, prudent persons are accustomed to rely in the conduct of their serious affairs.” Further, a ULJ “is not bound by statutory and common law rules of evidence.” Minn. R. 3310.2922.

McDonald correctly observes that Monarch did not offer the video footage of the three accidents into evidence. We further acknowledge that the manager was not present when the accidents occurred. But “[a] witness at an evidentiary hearing is not required to have firsthand knowledge because a ULJ ‘may receive any evidence which possess[es] probative value, including hearsay.’” *Skarhus*, 721 N.W.2d at 345 (quoting Minn. R. 3310.2922 (2005)). Here, the manager testified regarding her direct knowledge of the video footage. There is nothing in the record to suggest that her testimony was unreliable. Rather, the manager testified that she always reviews video footage when an accident occurs and explained that the video footage shows “different angles” of the bus, including “the rear,” “the sides,” and “the driver.” The ULJ therefore did not abuse their discretion when they allowed the manager to testify regarding the video footage, as this “is the type of evidence on which reasonable, prudent persons are accustomed to rely in the conduct of their serious affairs.” Minn. R. 3310.2922.

IV.

McDonald next argues the ULJ failed to comply with Minn. R. 3310.2921 (2023). Under that rule, 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. We review legal questions de novo. *Thao v. Command Ctr., Inc.*, 824 N.W.2d 1, 4 (Minn. App. 2012).

Specifically, McDonald argues the ULJ did not comply with rule 3310.2921 because they declined to ask the manager clarifying questions about the accidents. We are not persuaded. The record reflects that the ULJ asked the manager clarifying questions, including questions about the accidents and why the manager considered the accidents preventable. Moreover, this is not a circumstance where McDonald was disadvantaged because she represented herself. *See Ntamere v. Decisionone Corp.*, 673 N.W.2d 179, 180 (Minn. App. 2003) (“When a party is pro se, the ULJ must help the party to recognize and interpret the parties’ claims.” (quotation omitted)). McDonald had counsel at the hearing, who also asked the manager many questions about the accidents.

For these reasons, we conclude the ULJ complied with rule 3310.2921, and appropriately assisted the parties in presenting the evidence to ensure the facts were clearly and fully developed.

V.

Finally, McDonald contends that the ULJ legally erred when they determined she was discharged as of June 7, 2024. “A suspension from employment without pay that is of an indefinite duration . . . is considered a discharge at the time the suspension begins.” Minn. Stat. § 268.095, subd. 5(b) (2024). Again, we review this issue de novo. *See Thao*, 824 N.W.2d at 4.

Here, the record shows that Monarch placed McDonald on a three-day suspension on June 7, 2024, informing her that she would be contacted in three days. Monarch did not contact McDonald until July 2, 2024, when she was officially discharged. Accordingly,

because McDonald's suspension began on June 7, 2024, and was ultimately of indefinite duration, the ULJ correctly determined that June 7, 2024, was McDonald's discharge date.

Affirmed.