

*This opinion is nonprecedential except as provided by  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  
A24-2010**

Joe J. Bezdicek,  
Relator,

vs.

Northco Construction, LLC,  
Respondent,

Department of Employment and Economic Development,  
Respondent.

**Filed August 25, 2025  
Affirmed  
Johnson, Judge**

Department of Employment and Economic Development  
File No. 50847702-3

Joe J. Bezdicek, Albert Lea, Minnesota (*pro se* appellant)

Lucas D. Wilson, Arthur, Chapman, Kettering, Smetak & Pikala, P.A., Minneapolis,  
Minnesota (for respondent employer)

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

Considered and decided by Smith, Tracy M., Presiding Judge; Frisch, Chief Judge;  
and Johnson, Judge.

## **NONPRECEDENTIAL OPINION**

**JOHNSON**, Judge

Joe J. Bezdicek was fired from his job as a carpenter because he did not comply with his supervisor's instruction to take no action with respect to abandoned cats at a job site. An unemployment-law judge (ULJ) determined that Bezdicek is ineligible for unemployment benefits because he was discharged for employment misconduct. We affirm.

### **FACTS**

Bezdicek was employed as a carpenter for NorthCo Construction LLC from 2021 until early 2024. In the last week of his employment with NorthCo, Bezdicek was performing repairs on a rental house owned by a company that was a customer of NorthCo. While at the job site, Bezdicek discovered that several cats were living in the rental house. Bezdicek informed his supervisor, Matt Heger, project manager for NorthCo, that there were abandoned cats in the house. Heger informed a project manager for the customer that cats were at the house, and the project manager contacted a third party to remove the cats. Heger told Bezdicek that it was not his responsibility to address the cat issue and that the customer would do so.

Soon after Bezdicek's conversation with Heger about the cats, Bezdicek made a social-media post in which he asked "for someone to rescue" the cats and provided the address of the rental house. Several persons saw Bezdicek's social-media post and went to the rental house. The evidence is in conflict as to whether Bezdicek allowed the would-be rescuers to enter the rental house. But it is undisputed that the would-be rescuers were

not allowed to rescue all of the cats and that they contacted NorthCo's customer directly to complain.

NorthCo's customer was displeased. The customer informed NorthCo that it would not allow Bezdicek to work on its projects. The customer also terminated its business relationship with NorthCo, which previously had generated several hundreds of thousands of dollars of revenue per year for NorthCo. After the customer discontinued the business relationship, NorthCo had no other work for Bezdicek and terminated his employment.

In July 2024, Bezdicek applied to the department of employment and economic development for unemployment benefits. The department made an initial determination that he is eligible for benefits. NorthCo filed an administrative appeal of the initial determination. In August 2024, a ULJ conducted a hearing by telephone. Heger testified on behalf of NorthCo; Bezdicek testified on his own behalf. After the hearing, the ULJ issued a written decision in which he found that Bezdicek engaged in employment misconduct by disobeying Heger's instruction to take no action with respect to the cats. Accordingly, the ULJ determined that Bezdicek is ineligible for unemployment benefits. Bezdicek requested reconsideration, but the ULJ affirmed the prior ruling. Bezdicek appeals by way of a petition for a writ of certiorari.

## **DECISION**

Bezdicek argues that the ULJ erred by finding that he engaged in employment misconduct and determining that he is ineligible for unemployment benefits.

Unemployment benefits are intended to provide financial assistance to persons who have been discharged from employment "through no fault of their own." *Stagg v. Vintage*

*Place Inc.*, 796 N.W.2d 312, 315 (Minn. 2011) (quotation omitted). A person who has been discharged from employment because of “employment misconduct” is ineligible for unemployment benefits. Minn. Stat. § 268.095, subd. 4(1) (2024). “Employment misconduct” is defined by statute to mean “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.” *Id.*, subd. 6(a). In general, an employee’s refusal to comply with an employer’s reasonable policy is employment misconduct, and a “single incident can constitute misconduct when an employee deliberately chooses a course of conduct that is adverse to the employer.” *Schmidgall v. FilmTec Corp.*, 644 N.W.2d 801, 804, 806 (Minn. 2002). This court applies a *de novo* standard of review to a ULJ’s determination that an applicant’s conduct constitutes disqualifying misconduct. Minn. Stat. § 268.105, subd. 7(d)(4) (2024); *Stagg*, 796 N.W.2d at 315.

Bezdicek’s argument for reversal has three parts, which we address in turn.

A.

Bezdicek first argues that he was discharged because of a lack of work, not because of employment misconduct. He notes that Heger testified that NorthCo was willing to continue to employ him on jobs for other customers but did not have any such work available. Bezdicek’s argument is not viable because, under the unemployment statute, a finding that an applicant was discharged for lack of work is not outcome-determinative. The statutory definition of “discharge” states, in part: “A layoff because of lack of work is a discharge.” Minn. Stat. § 268.095, subd. 5(a). An applicant who was “discharged from

employment” may or may not be eligible for benefits, depending on the reason for the discharge. *See id.*, subds. 4-6a. An applicant who was discharged because of “employment misconduct” or “aggravated employment misconduct” is ineligible for unemployment benefits, whereas an applicant who was discharged for any other reason is eligible for unemployment benefits. *Id.*, subd. 4. Thus, Bezdicek’s assertion that he was discharged for lack of work merely begs the question whether he was discharged because of employment misconduct.

## **B.**

Bezdicek also argues that he did not engage in employment misconduct. He acknowledges that employment misconduct is defined to mean “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.” *See id.*, subd. 6(a). But he does not explain why his conduct does not satisfy that standard, except to say that, when he made the social-media post about the cats, his conduct was “a matter of conscience, wholly free of malicious thought or intent.”

An employee’s conduct satisfies the statutory standard of employment misconduct if the employee “refus[es] to abide by an employer’s reasonable policies and requests.” *Schmidgall*, 644 N.W.2d at 804. “When an employee’s refusal to carry out a directive of the employer is deliberate, calculated, and intentional, then the refusal is misconduct.” *Id.* at 806. A finding of malicious intent or bad faith is not required. *See* Minn. Stat. § 268.095, subd. 6(a). Whether the employee had a “wilful or wanton disregard of an employer’s

interests” or a “wrongful intent or evil design” is irrelevant. *Wilson v. Mortgage Resource Ctr. Inc.*, 888 N.W.2d 452, 457-58 & n.7 (Minn. 2016).

At the hearing, Heger testified that NorthCo’s customer banned Bezdicek from working on its projects because he “made inappropriate comments on Facebook pertaining to the job and denied the rescue people access to rescue the cats.” Heger also testified that, because Bezdicek no longer was allowed to work for that customer, NorthCo had no “ability to offer him any work.” Heger concluded his testimony by stating that Bezdicek was “let go due to his conduct.” The ULJ found Heger’s testimony on this issue to be credible, and this court generally defers to a ULJ’s credibility determination. *See Skarhus v. Davanni’s Inc.*, 721 N.W.2d 340, 344 (Minn. App. 2006). Heger’s testimony corresponds to Bezdicek’s response to a department questionnaire, in which Bezdicek stated that he was discharged because he “used [a] customer’s name on a Facebook comment.” The ULJ found that Bezdicek was discharged because he disobeyed Heger’s instruction to take no action with respect to the cats and, instead, “posted on social media the address of the house that had the abandoned cats” and “refused entry to the animal rescue volunteers to the house with the cats.”

As a general rule, “if the request of the employer is reasonable and does not impose an unreasonable burden on the employee, the employee’s refusal to abide by the request constitutes misconduct.” *Vargas v. Northwest Area Found.*, 673 N.W.2d 200, 206 (Minn. App. 2004), *rev. denied* (Minn. Mar. 30, 2004). Reasonableness varies by the circumstances of the case. *Sandstrom v. Douglas Mach. Corp.*, 372 N.W.2d 89, 91 (Minn. App. 1985). In these circumstances, Heger’s instruction to Bezdicek was reasonable

because the cats were outside the scope of NorthCo's and Bezdicek's work and because Heger already had contacted the customer, which had assumed responsibility for removing the cats. An employer has a right to expect its employees to comply with reasonable requests. *See Vargas*, 673 N.W.2d at 207 (citing *Bibeau v. Resistance Tech., Inc.*, 411 N.W.2d 29, 32 (Minn. App. 1987), and *Daniels v. Gnan Trucking*, 352 N.W.2d 815, 816 (Minn. App. 1984)). In addition, an employer has a right to expect its employees to not take any action that is contrary to the interests of an employer's customer. *Frank v. Heartland Auto. Servs., Inc.*, 743 N.W.2d 626, 629-31 (Minn. App. 2008) (overcharging); *Montgomery v. F & M Marquette Nat'l Bank*, 384 N.W.2d 602, 605 (Minn. App. 1986) (rudeness), *rev. denied* (Minn. June 13, 1986). In this case, Bezdicek did not comply with Heger's reasonable request, which resulted in NorthCo losing a customer and hundreds of thousands of dollars of revenue per year.

Bezdicek appears to contend that the social-media post was a good-faith error in judgment rather than employment misconduct. The statutory definition of employment misconduct excludes "good faith errors in judgment *if judgment was required*." Minn. Stat. § 268.095, subd. 6(b)(6) (emphasis added). But no judgment was required of Bezdicek after Heger clearly told him to take no action with respect to the cats. Consequently, the good-faith-error-in-judgment exception does not apply.

Thus, the ULJ did not err by determining that Bezdicek engaged in employment misconduct.

**C.**

Bezdicek last argues that the ULJ’s finding of employment misconduct is precluded by a statute that provides, “A person is not liable for rendering humane assistance to an injured pet or companion animal.” Minn. Stat. § 346.37, subd. 2 (2024). That statute is part of the Pet and Companion Animal Welfare Act. *See* Minn. Stat. §§ 346.35-.44 (2024). The act applies only “to veterinarians, animal boarding facilities, and commercial animal facilities.” Minn. Stat. § 346.36, subd 1. Bezdicek does not claim to be a veterinarian or to qualify as one of the covered facilities. In any event, “The definition of employment misconduct provided by [section 268.095, subdivision 6] is exclusive and no other definition applies.” Minn. Stat. § 268.095, subd. 6(e); *see also Wilson*, 888 N.W.2d at 458; *Stagg*, 796 N.W.2d at 316. Thus, the statute on which Bezdicek relies does not apply.

In sum, the ULJ did not err by determining that Bezdicek is ineligible for unemployment benefits.

**Affirmed.**