This opinion is nonprecedential except as provided by Minn.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
A25-1365

Shelley Schlichting,
Relator,

vs.

American Legion - St Francis Post 622,
Respondent,

Department of Employment and Economic Development,
Respondent.

Filed April 27, 2026
Affirmed
Jesson, Judge[*]

Department of Employment and Economic Development
File No. 51550796-3

Shelley Schlichting, St. Francis, Minnesota (pro se relator)

American Legion – St. Francis Post 622, St. Francis, Minnesota (respondent employer)

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

Considered and decided by Ede, Presiding Judge; Harris, Judge; and Jesson, Judge.

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

NONPRECEDENTIAL OPINION

JESSON, Judge

Relator Shelley Schlichting, in her position as manager, failed to track income and expenses and then failed to pay past-due sales-tax bills. She was fired by respondent American Legion. After a hearing, an unemployment-law judge (ULJ) determined that Schlichting was discharged for employment misconduct, and the decision was affirmed after reconsideration. Because Schlichting received a fair hearing, and because substantial evidence supports the ULJ's determination that Schlichting was discharged for employment misconduct, we affirm.

FACTS

Schlichting worked as a manager for American Legion in St. Francis from January 2024 to February 20, 2025.[1] As manager, Schlichting's job duties included overseeing bar and kitchen operations, ensuring a clean premises, tracking income and expenses, and paying sales taxes, among other things.

While managing American Legion, Schlichting had the practices of assigning cleaning duties to an employee and her son, not tracking how much money was received or spent from coffee donations, and hiring an employee's boyfriend to perform certain jobs in exchange for gift cards. These practices drew numerous complaints from customers.

[1] The facts are taken from evidence presented during a hearing before the ULJ that took place over two days on the issue of whether Schlichting was discharged for employment misconduct.

From June 2024 to January 2025, Ray Laudenbach, Schlichting's supervisor, discussed customer complaints with Schlichting about the cleanliness of the restaurant and banquet hall. Because of these complaints, Schlichting hired professional cleaners in early 2025.

Throughout Schlichting's employment, customers met at American Legion approximately two times per week to play cards. American Legion provided coffee to these customers and had a box set out to collect donations for coffee money. Schlichting maintained a bag in the safe for these donations, but did not track how much money was received or how the money was spent. Melissa Schrunk was the head of the Lions group, a local community group that frequently partnered with American Legion for events. Schrunk became concerned about Schlichting's failure to track these donations.

Throughout Schlichting's employment, she often hired a staff member's boyfriend to perform certain jobs at American Legion and paid him in gift cards up to $150 at a time. Schrunk also became concerned about this practice. Schlichting claims that this practice began in 2024, and that during this time she kept carbon copies of the gift cards issued reflecting the gift-card value and the work performed but did not track these records until January 2025. Schlichting also claims that, when she began keeping track of these records, she backdated the work that had been performed from 2024 to early 2025. After a search following Schlichting's discharge, American Legion was not able to locate these records.

In addition, in January 2025, Schlichting informed Laudenbach that she was not able to pay American Legion's past-due sales-tax bills. At the hearing before the ULJ, Schlichting and Laudenbach presented different explanations for why the sales-tax bills could not be paid. According to Schlichting, this was due to decreased revenues related to an ongoing internet outage at American Legion and bonuses paid to staff members. But according to Laudenbach, this was due to Schlichting's "mismanagement of funds." Laudenbach and the new manager also reported that, as a result of the failure to pay sales-tax bills, the state had imposed liens against American Legion and that it was in arrears.

At the beginning of February 2025, Schrunk raised her concerns to Laudenbach and two board members during a meeting. Schrunk explained that she was considering no longer doing business with American Legion because of Schlichting's mismanagement. Schrunk detailed these concerns in a follow-up email to Laudenbach dated February 10, 2025. Following the meeting, Schlichting was discharged from employment by American Legion.

Schlichting then applied for unemployment benefits. Respondent Minnesota Department of Employment and Economic Development (DEED) issued an initial determination of eligibility, stating that American Legion discharged Schlichting for reasons other than employment misconduct, and that Schlichting was therefore eligible for unemployment benefits. As a result of this initial determination, Schlichting began receiving unemployment benefits.

American Legion appealed the initial determination, and a ULJ conducted a hearing. The ULJ found that the "preponderance of the evidence supports a finding that Schlichting was not following standard expectations when managing a business," that Schlichting was "negligent in her managing of expenses and tracking income which included a failure to track coffee donations received at events," and that Schlichting "was also not maintaining any records regarding ongoing gift card payments to a coworker's boyfriend." The ULJ further found that, given American Legion's financial struggles, Schlichting's failure to track income and expenses "showed a serious violation of the employer's reasonable expectations." The ULJ concluded that Schlichting was discharged "because of employment misconduct," and as a result, Schlichting was ineligible for unemployment benefits under Minnesota Statutes section 268.095 (2024). This determination by the ULJ resulted in an overpayment of unemployment benefits to Schlichting in the amount of $5,761.

Schlichting requested reconsideration. The decision on reconsideration was modified to correct typographical errors and was affirmed as factually and legally correct.

Schlichting petitioned for a writ of certiorari.

DECISION

On appeal, we may affirm the ULJ's decision or remand for further proceedings. Minn. Stat. § 268.105, subd. 7(d) (2024). We may also reverse or modify the decision if the petitioner's substantial rights may have been prejudiced because the decision was in violation of the constitution, in excess of the ULJ's statutory authority, based on an unlawful procedure, affected by an error of law, unsupported by substantial evidence, or was arbitrary or capricious. *Id.* The ULJ's findings of fact are reviewed in the light most favorable to the decision and will not be disturbed if they are substantially supported by the record. *Skarhus v. Davanni's Inc.*, 721 N.W.2d 340, 344 (Minn. App. 2006); *see also Wilson v. Mortg. Res. Ctr., Inc.*, 888 N.W.2d 452, 460 (Minn. 2016). We do not reweigh conflicting evidence, and we defer to the credibility determinations made by the

ULJ. *Vargas v. Nw. Area Found.,* 673 N.W.2d 200, 205 (Minn. App. 2004) (declining to reweigh evidence), *rev. denied* (Minn. Mar. 30, 2004); *Bangtson v. Allina Med. Grp.*, 766 N.W.2d 328, 332 (Minn. App. 2009) (deferring to credibility determinations).

Schlichting challenges the ULJ's determination that she was ineligible for unemployment benefits. Schlichting argues that (1) she did not receive a fair hearing; (2) the ULJ's findings are not supported by substantial evidence; and (3) the ULJ erred in determining that she was discharged because of employment misconduct. We address each argument in turn.

I. The ULJ conducted a fair hearing.

Schlichting argues that she did not receive a fair hearing because her subpoena requests were denied, she was not given advance notice that the issue of alleged tax liens would be raised at the hearing, and the ULJ admitted hearsay testimony without sufficient evidence of reliability.[2] We review a ULJ's evidentiary rulings and decision to deny a request for a subpoena for an abuse of discretion. *CUP Foods, Inc. v. City of Minneapolis*, 633 N.W.2d 557, 566 (Minn. App. 2001) (applying abuse-of-discretion standard to evidentiary rulings), *rev. denied* (Minn. Nov. 13, 2001); *Icenhower v. Total Auto., Inc.*, 845

[2] 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," and a ULJ "is not bound by statutory and common law rules of evidence." The record establishes that the hearsay testimony received by the ULJ was the type that reasonable, prudent people are accustomed to rely on. Further, the ULJ's questions, which included asking the witnesses about their thoughts and beliefs, elicited evidence that possesses probative value. As such, the ULJ properly admitted the hearsay testimony.

N.W.2d 849, 853 (Minn. App. 2014) (applying abuse-of-discretion standard to subpoenas), *rev. denied* (Minn. July 15, 2014).

Subpoena

A ULJ maintains the authority to issue subpoenas upon a showing of necessity by the requesting party. Minn. R. 3310.2914, subp. 1 (2023). But a party's request for a subpoena "may be denied if the testimony or documents sought would be irrelevant, immaterial, or unduly cumulative or repetitious." *Id.*

Here, Schlichting requested a subpoena for the following documents and records: (1) a copy of the banquet menu; (2) records related to the employee's boyfriend, including the work he performed for American Legion and the amounts that were paid; (3) a copy of a deposit slip from the American Legion account; and (4) the American Legion employee handbook. The ULJ denied Schlichting's subpoena request.

With regard to the request for a copy of the banquet menu and deposit slip, Schlichting testified that she sought them to rebut allegations made by Schrunk. These allegations included that Schlichting did not have a baseline or spreadsheet detailing the hall rental price, and that Schlichting had overstated the amount of donations American Legion had received following an event. But while Schrunk's letter containing these allegations is an exhibit in the record, they were not included in the findings of fact and decision issued by the ULJ. As such, the ULJ did not abuse its discretion in denying the subpoena request for these documents as they were irrelevant and immaterial to the proceedings. *See* Minn. R. 3310.2914, subp. 1.

Schlichting further requested the records related to the employee's boyfriend, she testified, to rebut allegations that she did not keep documentation regarding the work being performed and the amount of gift cards that were distributed. But American Legion's current manager testified that after a search, no such records were found. The ULJ found certain parts of Schlichting's testimony were "illogical" but found the testimony by American Legion's current manager was credible. The ULJ further found that it was "the most likely explanation of events" that Schlichting failed to track the gift cards. The record substantially sustains the ULJ's factual findings and credibility determinations on this issue. *See Skarhus*, 721 N.W.2d at 344 (explaining that this court views the ULJ's factual findings in the light most favorable to the decision and gives deference to the credibility determinations made by the ULJ). As such, the ULJ did not abuse its discretion in denying the subpoena request for these documents. *See* Minn. R. 3310.2914, subp. 1.

Finally, Schlichting testified that the only reason she was requesting the employee handbook was because she did not believe that proper procedures were followed in her termination. However, the unemployment proceeding was only related to whether employment misconduct occurred, not whether internal employer procedures were followed during the events leading to Schlichting's discharge. The ULJ explained this to Schlichting during the hearing before denying the request for this document. Further, Laudenbach testified that American Legion does not have an employee handbook at all. As such, the ULJ did not abuse its discretion in denying the subpoena request for the employment handbook as it is non-existent, irrelevant, and immaterial to the proceedings. *See* Minn. R. 3310.2914, subp. 1.

Tax Liens

While Schlichting advances fair-hearing concerns over American Legion raising the issue of tax liens at the hearing, the ULJ's findings of fact and decision do not cite the issue of tax liens. The ULJ effectively disregarded this testimony as irrelevant to the proceeding. Instead, the ULJ's decision was—in part—based on Schlichting's failure to pay past-due sales-tax bills. And the issue of the past-due sales-tax payments was the subject of extensive testimony at the hearing, including Schlichting's own admissions that the sales-tax bills were past due and that she had informed Laudenbach of the overdue payments prior to her discharge. Accordingly, the testimony regarding alleged tax liens did not violate Schlichting's right to a fair hearing.[3]

In sum, the denial of Schlichting's subpoena requests, testimony regarding tax liens, and admission of hearsay testimony did not violate Schlichting's right to a fair hearing. The ULJ conducted a fair hearing.[4]

II. The ULJ's findings of fact are supported by substantial evidence in the record.

Schlichting argues that her employer's statements "consist[] primarily of uncorroborated allegations and hearsay" and as a result, do not provide the "substantial and

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[3] Further, Schlichting was on notice at the first day of the hearing that the issue of tax liens would be raised by American Legion, which gave Schlichting time to prepare on this issue for the second day of the hearing.

[4] Schlichting additionally argues that a statement made by Schrunk in the February 10, 2025 email to Laudenbach—where Schrunk referred to Schlichting as allegedly being in recovery,—"invited prejudicial inference." However, there was no mention of this statement at the hearing, it was not cited in the May 2025 decision, nor was it cited in the August 2025 reconsideration order. Because Schlichting has presented no evidence that the ULJ gave this statement any weight in its decision, her argument that this statement resulted in an unfair hearing is unpersuasive.

credible evidence" required under Minnesota Statutes section 268.105, subdivision 7(d). We disagree.

We review the ULJ's factual findings in the light most favorable to the decision and will not disturb those findings as long as there is evidence in the record that substantially sustains them. *Skarhus*, 721 N.W.2d at 344. Substantial evidence is "such relevant evidence as a reasonable mind might accept as adequate to support a conclusion." *Gonzalez Diaz v. Three Rivers Cmty. Action, Inc.*, 917 N.W.2d 813, 816 n.4 (Minn. App. 2018) (emphasis omitted) (quotation omitted). 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." Minn. R. 3310.2922; *see Skarhus*, 721 N.W.2d at 345 (stating that a ULJ may receive hearsay evidence).

Cleaning

The ULJ found that Schlichting was discharged in part due to complaints about her failure to keep the premises clean. This finding is supported by testimony from both Schlichting and Laudenbach, which establishes that Schlichting initially assigned cleaning duties to an employee and her son, that from June 2024 to January 2025 there were numerous customer complaints about the cleanliness of the building, that Laudenbach communicated these complaints to Schlichting and provided her with photographic documentation of unclean areas, and that it took approximately eight months of complaints before Schlichting hired professional cleaners. Finally, Schlichting herself acknowledged that she could have hired the professional cleaners earlier to help resolve the cleanliness problems.

In sum, the ULJ's finding that Schlichting was discharged in part due to complaints about her failure to keep the premises clean is supported by substantial evidence in the record.

Tracking Income and Expenses

The ULJ found that Schlichting was negligent in failing to track income and expenses, such as the coffee donations and payment of gift cards to the employee's boyfriend, and that this was a reason for her discharge. This finding is supported by substantial evidence in the record.

Schlichting's own testimony addresses the tracking of income and expenses. Schlichting testified that, while she maintained a bag in the safe for the coffee donations, she did not track how much money was received or how the money was spent. When asked how this money was being used, Schlichting replied that it was used on "random things" including lemons for the bar, paying the bartender, and buying fruit, chips, and coffee, but she admitted there was no way for her employer to account for where this money was going. Schlichting further testified that she gave the employee's boyfriend gift cards of up to $150 for work being performed around the building beginning in 2024. While she kept carbon copies reflecting the gift-card amounts and work performed, she did not track these records until January 2025, and she backdated the work that had been performed prior to that time. Schlichting did not explain how she ensured these backdated records were accurate. Further, Schlichting testified that she had given gift cards to others for jobs being performed around the building but did not provide any indication that she was keeping records for these dealings. The ULJ found certain parts of Schlichting's testimony to be "illogical," and found that, because Schlichting did not track the coffee donations, it was "more probable than not" that she also did not track the gift-card payments.

The ULJ's findings are further supported by Laudenbach's testimony. Laudenbach testified that Schlichting should have kept a record for coffee donations because "any time a business takes in any money, no matter how small, it should be recorded somewhere." And the email from Schrunk put Laudenbach on notice that Schlichting was not tracking the coffee donations prior to her discharge.[5] Laudenbach was aware that Schlichting was giving gift cards to the employee's boyfriend for work being performed prior to Schrunk bringing it to his attention, but admitted that he was not aware of the value of these gift cards or the frequency that they were being given out.

Schrunk's testimony further supports the ULJ's findings. Schrunk's testimony reflects that she knew about the coffee donations from customers and staff, that she has personal relationships with these individuals, and that these individuals expressed concerns about where the coffee donations were going. Because Schrunk's first-hand knowledge of the alleged misconduct is not required, this evidence was properly received at the hearing. *See* Minn. R. 3310.2922; *see also Skarhus*, 721 N.W.2d at 345 (stating that "[a] witness at

[5] Schlichting's argument that Laudenbach "had no prior awareness of the existence or absence of records related to 'coffee money' or gift cards" prior to her termination is not supported by the record. This is because Schrunk detailed these concerns in the email to Laudenbach dated February 10, 2025. Thus, Laudenbach was on notice of these events prior to Schlichting's discharge on February 20, 2025. The ULJ similarly rejected this argument on reconsideration.

an evidentiary hearing is not required to have firsthand knowledge" under Minn. R. 3310.2922).

Finally, American Legion's current manager testified that, after a search, the detailed gift-card record that Schlichting claimed to have made was unable to be located. The ULJ found this testimony to be credible.

Given this testimony, the ULJ's finding that Schlichting was negligent in failing to track income related to the coffee donations and gift cards paid to the employee's boyfriend and that this was a reason for her discharge is supported by substantial evidence in the record. *See Skarhus*, 721 N.W.2d at 344.

To convince us otherwise, Schlichting argues that she was not "trained in nonprofit financial recordkeeping" and was not "instructed to track [the] coffee donations or gift card distributions in any particular way." But this contention is contradicted by Laudenbach's testimony, which established that, as a manager, "it's a general practice to . . . log any money coming in and going out" of the business, and that Schlichting had prior experience as a manager at another American Legion location where she performed similar job duties.

In sum, viewing the ULJ's factual findings in the light most favorable to the decision, and giving deference to the credibility determinations made by the ULJ, the ULJ's findings that Schlichting was negligent in failing to track income and expenses and that this was a reason for her discharge is supported by substantial evidence in the record. *See Skarhus*, 721 N.W.2d at 344.

Sales Tax

The ULJ found that Schlichting was discharged because she failed to timely pay sales taxes. This finding is supported by testimony from both Schlichting and Laudenbach. Schlichting testified that, in December 2024, she was not able to pay the past-due tax bills, and that she informed Laudenbach of this. While Schlichting argues that Laudenbach had not reviewed the financial records prior to her discharge, Laudenbach was not required to do so. It was Schlichting herself who informed Laudenbach of the inability to pay the sales taxes. Given what Laudenbach knew at the time of Schlichting's discharge—which included her failure to track income and expenses—it was reasonable for Laudenbach to conclude that the inability to pay the sales taxes was due to financial mismanagement of the business.

To convince us otherwise, Schlichting argues that the past-due sales taxes were "outside the scope of [her] role" and that this issue was not a "legitimate or documented basis for termination." But the record clearly reflects that, as manager, it was Schlichting's responsibility to pay the sales taxes and that she actively undertook this responsibility. The record also reflects that Laudenbach was aware of the past-due payments prior to Schlichting's discharge and that the past-due payments had the potential to cause serious harm to the business.

In sum, the ULJ's finding that Schlichting was discharged for her failure to pay past-due sales taxes is supported by substantial evidence in the record. *See Skarhus*, 721 N.W.2d at 344.[6]

III. The ULJ correctly determined that Schlichting was discharged because of employment misconduct.

Employment misconduct is defined as "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). An employee who is discharged for employment misconduct is ineligible for unemployment benefits. *Id.*, subd. 4(1). Schlichting argues that she was not discharged for employment misconduct.

Whether an employee engaged in misconduct is a mixed question of law and fact. *Skarhus*, 721 N.W.2d at 344. "Whether the employee committed a particular act is a question of fact." *Id.* The ULJ's findings of fact are reviewed in the light most favorable to the decision and deference is given to the ULJ's credibility determinations. *Id.* We will not disturb the ULJ's factual findings when the evidence substantially sustains them. *Id.* (citing Minn. Stat. § 268.105, subd. 7(d)). But we review de novo whether an employee engaged in employment misconduct. *Id.*

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[6] Schlichting additionally argues that the ULJ's "inquiry into whether the employer 'believed' [she] was stealing money" undermined the integrity of the proceeding. However, the ULJ made clear that, because Laudenbach did not have confirmation that this was happening at the time of her discharge, the ULJ was not going to ask about it during the hearing. Further, this testimony was not referenced in the ULJ's findings of fact and decision. Thus, Schlichting's argument on this point is unpersuasive.

Here, while American Legion did not have written policies, the testimony reflects that, as a manager, "it's a general practice to . . . log any money coming in and going out" of the business. The testimony further reflects that Schlichting had prior experience as a manager at another American Legion location where she performed similar job duties, so even despite the lack of written policies at this location, she was on notice of this general practice. Finally, the ULJ's finding that Schlichting was negligent in her managing of expenses and tracking income and that this conduct violated her employer's reasonable expectations is supported by substantial evidence in the record. By failing to track income and expenses, Schlichting failed to "scrupulous[ly] adhere[] to procedure" in handling American Legion's money, which contributed to the inability to pay the past-due sales-tax bills. *McDonald v. PDQ*, 341 N.W.2d 892, 893 (Minn. App. 1984). Given her managerial position and an employer's "right to expect scrupulous adherence to procedure by employees handling the employer's money," such conduct constitutes employment misconduct. *Id.*

To convince us otherwise, Schlichting argues that she was discharged in retaliation for "raising safety, financial, and harassment concerns." But Schlichting presented this theory to the ULJ in her testimony. The ULJ's findings of fact and decision do not cite this testimony, indicating that the ULJ effectively disregarded it. It is well settled that we do not reweigh conflicting evidence on appeal. *See Vargas*, 673 N.W.2d at 205. As such, Schlichting's argument fails.

In sum, the ULJ did not err by concluding that Schlichting was discharged because she engaged in employment misconduct. Accordingly, Schlichting was properly denied unemployment benefits.

Affirmed.